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No. 15-1262

In the
Supreme Court of the United States

PATRICK MCCRORY, in his capacity as Governor of North Carolina, NORTH CAROLINA STATE BOARD OF ELECTIONS, and A. GRANT WHITNEY, JR., in his capacity as Chairman of the North Carolina State Board of Elections,

Appellants,

v.

DAVID HARRIS and CHRISTINE BOWSER,

Appellees.

On Appeal from the United States District Court for the Middle District of North Carolina

JOINT APPENDIX VOLUME IV

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[1] STATE OF NORTH CAROLINA COUNTY OF WAKE IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION

11-CVS-16896

MARGARET DICKSON, et al.,

Plaintiffs,

vs.

ROBERT RUCHO, et al.,

Defendants.

NORTH CAROLINA STATE CONFERENCE OF BRANCHES OF THE NAACP, et al.,

Plaintiffs,

vs.

THE STATE OF NORTH CAROLINA, et al.,

Defendants.

11-CVS-16940
(Consolidated)

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TRANSCRIPT OF PROCEEDINGS

The above-captioned cases coming on for hearing Tuesday, June 4, 2013, Special Civil Session of the Superior Court of Wake County, Raleigh, North Carolina, before the Honorable Paul Ridgeway, the

Honorable Alma Hinton and the Honorable Joseph Crosswhite, Judges presiding, the following proceedings were had:

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[4] (The Special Session of the Superior Court of Wake County commenced on Tuesday, June 4, 2013 before the Honorable Paul Ridgeway, the Honorable Alma Hinton and the Honorable Joseph Crosswhite at 10:02 a.m.)

JUDGE RIDGEWAY: All right. Good morning, ladies and gentlemen. Thank you –

MR. SPEAS: Good morning.

JUDGE RIDGEWAY: thanks for being here for this bench trial on two issues that were identified previously. Yesterday we conducted a brief telephone conference for the purpose of setting some ground rules, if you will, for how this hearing would be conducted, and we certainly appreciate the parties thinking through these rules and – and helping us come up with what seems to be a fair way of allocating the time that we have available to us.

It's our intention to conduct this hearing within the two days that we have, and so we've divided those two days into two six-hour blocks. And we're -- each side will have six hours to conduct any opening and closing statements, if they wish, to conduct examination of

witnesses that they call, to conduct cross-examination of witnesses called by opposing parties, and to conduct redirect or rebuttal examination of, again, witnesses that they call.

[5] So that – we're going to have the clerk keeping time, and the parties are welcome to inquire with the clerk to determine how much time they have left.

We have indicated that we would be pleased or willing to receive closing arguments in written form at the conclusion of these hearings, and so that's certainly an option that the parties can avail themselves of, if they wish.

We are – just other ground rules that we have, there are – we will permit cross-examination of witnesses by more than one lawyer. These cases are joined, consolidated cases. There are lawyers that represent different parties on each side of the courtroom, and so the cross-examination can be conducted by multiple lawyers as the parties see fit.

And then there was – there were pretrial motions to exclude witnesses and for – for various reasons filed by the Defense. We've considered those motions; and what we indicated to the parties is, is that we are not going to – we are declining to exclude witnesses based on those grounds.

However, this is a bench trial and we are operating under the presumption that the Court will only consider admissible and competent evidence and will assign the appropriate weight to that evidence if [6] admitted. So we're operating under that presumption. And so we're going to – we're going to consider and entertain evidence despite the objections that were raised, but operating under that presumption.

All right. Anything that needs to be said?

All right. Well, very good. Why don't we begin, as we normally do, with a brief introduction by counsel and the parties they represent for the record, and then we'll turn immediately to the Plaintiffs' case.

Mr. Speas.

MR. SPEAS: May it please the Court, I'm Edwin Speas with Poyner & Spruill. I'm here today with two of my associates, Mr. O'Hale John O'Hale and Carolyn Mackie, and we represent the Plaintiffs in the Dickson matter.

MS. EARLS: Good morning, Your Honors. My name is Anita Earls. I represent the NAACP and the Plaintiffs in that action. With me is Adam Stein, Allison Riggs and Clare Barnett.

JUDGE RIDGEWAY: Thank you. Mr. Peters.

MR. PETERS: May it please the Court, and good morning. My name is Alec Peters from the Attorney General's Office. With me is Susan Nichols also of that [7] office, and we represent all the Defendants in both the Dickson and the NAACP actions.

MR. FARR: Good morning, Your Honors. I'm Tom Farr from the Raleigh Law Firm of Ogletree Deacons. With me today is my partner Phil Strach, and we are here representing the Legislative Defendants.

And thank you very much, Your Honors, for all that you put into this case. And it's been a difficult case, and I know I speak for all the lawyers that we really appreciate your time and effort.

JUDGE RIDGEWAY: Thank you, sir.

MR. FARR: Thank you.

JUDGE RIDGEWAY: Ms. Nichols – Mr. Peters, did you introduce Ms. Nichols or –

MR. PETERS: I – I think I did.

JUDGE RIDGEWAY: Maybe you did. I'm sorry. I missed that. Thank you. All right. Thank you.

All right. Mr. Speas.

MR. SPEAS: Your Honor, I would like to begin with a just a brief opening statement from our allotted time. Good morning and thank you for being here and listening to us.

As we begin this trial, I wanted to take just a few minutes to describe for you the testimony that [8] we would like to present and also to discuss what we think is a pivotal legal issue that we would like for you to bear in mind as you consider that evidence.

There are two issues, as the Court noted, that have been designated for trial. The first is this: Whether Defendants located the House and Senate and Congressional districts challenged in these cases in communities for which Defendants had compiled a strong basis for concluding that the Voting Rights Act required the construction of a race-based district to preclude Section 2 liability.

To address this issues (sic), we will call a series of experienced and knowledgeable citizens from across the state to provide examples of the repeated success of black candidates for elected office in those communities and to discuss the level of black support for those black candidates in those communities that made that success possible. These witnesses have spent decades evaluating voting – voting patterns in the state and will include Senator Dan Blue and Congressman Mel Watt.

As the Court hears the evidence on this first issue, we would ask the Court to bear in mind what we think is the pivotal legal issue with respect to this first issue. And that is this: A statistically [9] significant pattern of white citizens voting for white candidates and black citizens voting for black candidates is by itself legally meaningless and will not save race-based districts from a declaration of unconstitutionality.

Racially polarized voting only becomes legally significant and sufficient to save a race-based district from a declaration of unconstitutionality when the level of racially polarized voting is high enough usually to defeat the preferred candidate of black citizens.

This legal principle is in effect the third prong of the Gingles precondition – preconditions. To establish this third prong and save their race-based districts from a declaration of unconstitutionality, the Defendants had to have compiled a strong basis in evidence demonstrating first that racially polarized exist – voting exists; and, secondly, that as a result of that racially polarized voting, the candidate of black voters of choice usually is defeated. Both elements must be present, and the second element is not present here.

Indeed, the opposite is true. As our witnesses will establish, the candidates of choice of black voters do not usually lose in the places where the challenged districts have been created; they win.

[10] The second issue for decision by the Court is whether race was the predominant factor in the construction of Congressional Districts 4 and 12, Senate Districts 31 and 32, and House Districts 51 and 54.

Congressman Watt will testify about this issue with regard to Congressional District 4, and former Senator Linda Garrou will testify about that issue with respect

to Senate District 32. Plaintiffs will rely on exhibits in the record with regard to House Districts 51 and 54.

After the Defendants' evidence is completed, the Plaintiffs will call Dr. Allan Lichtman as a rebuttal witness to respond to the Defendants' evidence and to confirm mathematically the observations of our lay witnesses; that the Defendants did not have a strong basis in evidence for concluding that the third prong of the Gingles requirements is present in this case. Therefore, the districts that we challenge are defective and unconstitutional.

That's my opening statement, Your Honor. And with that, we would like to call our first witness.

JUDGE RIDGEWAY: All right. I'll provide an opportunity for opening, or you can reserve it.

MR. PETERS: I – I would like to just make one very brief statement and also note something for [11] the record with the Court.

And the very brief statement is this: We think it's important that the Court remembers as it goes forward, as we're sure it will, who has the burden of proof in this case and what that burden is. The Plaintiffs have the burden of proof. They have the burden of proof on the first issue of proving that the Legislature did not have a strong basis in the evidence for believing that the challenged districts were necessary where they were drawn and that the challenged districts themselves are not a reasonable response to that strong evidence. It is not the burden of the Defendants to prove that there was a basis in the evidence, but for the Plaintiffs to prove that there was not such a basis in the evidence.

And I just want to mention something with regard to what Mr. Speas just told you. He told you you're going to hear from, I believe in his words, a number of lay witnesses about their observations. The one witness you're not going to hear from, at least through the Plaintiffs, apparently, is the expert that AFRAM and the Southern Coalition for Social Justice, whose report they put before the Legislature when it was actually considering the plans. But we have noted that report in our designations because it is their expert was [12] one of the ones who established and provided the Legislature with that basis for believing that the districts where they are drawn, racially polarized voting still exists and these districts would be a reasonable response to that.

With regard to the second issue, it is the Plaintiffs' burden of proving that race was the predominant motive and that the shapes and locations of these districts are inexplicable for any reason other than race.

So we would just ask the Court to bear that in mind as you hear the testimony of these lay witnesses, that they have that burden before these statutes can be declared unconstitutional.

And – and then just as a matter of housekeeping, Your Honor, I know you noted on the record a little earlier about our motion to exclude, and we understand that ruling completely. We don't want to get caught in a question later on about whether we have waived any objection by allowing the witnesses to testify without repeating that objection, so we would ask the Court if we could have a standing objection throughout the trial on the basis set forth in our motion so that we're not constantly interrupting the flow of the trial with the witnesses.

[13] JUDGE RIDGEWAY: That's certainly fine that you have that standing objection. And that – that actually brings to mind another issue. Both parties have – have provided the Court yesterday a list of objections that they would make to items of evidence that the opposing party has designated. And we can handle that in one of two ways: You can either restate the many of those objections for both sides are on the grounds of relevancy. And – and I believe what you'll find is, is that on relevancy issues, you will hear our view that we're going to allow the evidence to be presented based on the presumption we spoke about earlier.

We can either have you make those objections each time that that evidence is tendered, or we can – if you agree among yourselves that the written submissions that you have will suffice to preserve the record, we're satisfied with that as well.

I would urge you if there is an objection that falls out of that general category of relevancy that both of you have articulated very well to, that perhaps those would be the types of objections you may want to state for the record to give us the opportunity to perhaps consider them briefly. But I'll leave that up to you whether you wish to...

[14] MR. PETERS: I think the Defendants are certainly fine resting with the objections as we filed them yesterday and letting that – state that for the record.

MR. SPEAS: And for the Dickson Plaintiffs, yes, that's satisfactory.

JUDGE RIDGEWAY: Ms. Earls.

MS. EARLS: Yes, your Honor, we do – we may want to provide additional briefing post trial on our positions with regard to relevancy, but we would rest on that.

JUDGE RIDGEWAY: Mr. Farr.

MR. FARR: That's perfectly acceptable to the Legislative Defendants, Your Honor.

JUDGE RIDGEWAY: All right. Very good. Then that's – that's what we'll do. We'll simply accept those designations of objections into the record, deem them noted with respect to all evidence that's being admitted that's described in those written documents and certainly will – if you wish to make further arguments in writing, we'll consider them as well.

MR. PETERS: And then, Your Honors, if I may, I have got one other matter that I just want to make sure we preserve for the record.

We did indicate to the Court when the [15] question of the issues first came up and the possibility of a trial first came up, the position of the Defendants that if the Court were to make findings of fact on narrow tailoring, there were other issues beside these two very specific issues on which we believe we're entitled to present evidence.

And so respectfully and just, again, so the record is clear, in the long run, we would like to lodge an objection to evidence being taken as to some issues without all of the issues that we think would be relevant to a narrow tailoring analysis.

JUDGE RIDGEWAY: All right. Thank you. That objection is noted.

All right. Very good. Mr. Speas, evidence for the Plaintiffs.

MR. SPEAS: Yes. I thank you, Your Honor. We would call Senator Dan Blue to the stand.

And as Senator Blue is coming up, let me just observe that in front of you there is a white notebook that has our trial exhibits in it. Various of the witnesses will refer to that during the course of their testimony.

In addition, Your Honors, we have maps from the prior proceedings that we will show on the screen to illustrate the testimony of the various [16] witnesses at various times.

Senator Blue.

WHEREUPON, SENATOR DAN T. BLUE, JR., was called as a witness, having been first duly sworn, and testified as follows:

DIRECT EXAMINATION

BY MR. SPEAS:

Q. Senator Blue, thank you for coming. Would you state your name for the record, please.

A. I'm Dan Blue – Daniel T. Blue, Jr. – and I live in Wake County.

Q. Would you take just a few minutes and describe for the judges your background in North Carolina.

A. Good morning, Your Honors.

I was born in Robeson County, Lumberton, grew up there, went to the public schools there, went to a college here in the Triangle; NC Central, Duke Law School. And I've practiced law here in Raleigh for the last 40 years; in fact, just went to my 40th law school reunion. And I – I started with one of the bigger firms: Sanford, Cannon, Adams and McCullough. Stayed

there for a while and then went to created our own firm, and I've been there ever since. And so I still practice with a small firm in Downtown Raleigh.

Q. Thank you, Senator. And I – I believe that [17] over the years, you've held elected office on a few occasions.

A. I have. I have. I was elected to the North Carolina House of Representatives in 1980, and I served in the House continuously from 1980 until December 31, 2002. I – during that time, I served two – two complete terms as the Speaker of the House and served on every Redistricting Committee in '81 through – through the '80s and sorted the tumultuous decisions during that time. I was appointed to the Redistricting Committees in the '90s and served on the Redistricting Committee in 2001, 2002.

I left the Legislature again on December 31, 2002 and came back to the House in October 2006. The gentleman who replaced me in the House died, and I was chosen by the committee to take that seat back. So I, again, was elected in 2006-2008 to the House. And in 2009, I went over to the Senate and have since been reelected two times to the Senate.

Q. So by my count, Senator, you've been elected to office by Wake County voters 13 times; 11 to the House and two to the Senate.

A. It s more than 13 because –

Q. Okay.

A. – I'm finishing up – it will be 30 years at [18] the end of this session, so I've been elected 15 times.

Q. Senator, by – by virtue of all of those years' experience, have – have you gained some understanding of voting patterns and election results in Wake County and North Carolina generally?

A. I have, Mr. Speas. I – I'm sort of different in a way in that I'm probably – well, I'm not the only, there may be one other – but I was elected countywide in Wake County several terms when I was in the House before we went to single-member districts. And so I got a feel for the whole county when I was campaigning for myself countywide as well as a feel for the county campaigning on behalf of other people.

But just as well, I've also been very active across the state in political campaigns. In fact, that was one of the reasons I left the North Carolina House in 2002. I had a brief moment of something. My wife was out of town, and I decided to run for the United States Senate. And so I ran for the United States Senate in the – in the 2002 primary and traveled extensively across the state and, again, developed firsthand knowledge of political coalitions, activities and stuff across the state. But during that entire time, I was still very active throughout Wake County in many capacities.

[19] Elected to the Senate, it – when I -- when I was elected to the Senate, the Senate district encompassed most of my old House district. But as you would imagine, since the Senate is much smaller than the House is – about two-and-a-half times the size of the House district so the demography of it is quite different than the House district, and but pretty much as – as it was when Iwas running countywide in the '80s.

Q. Senator, could you share with the Court some of your memory of occasions when the voters in Wake

County have elected African Americans to various offices –

A. Well –

Q. – at the local level, various ones?

A. Well, since the 1970s – in fact, I started practicing law here in 1973. And since the 1970s, Wake County has elected African Americans countywide. There's continuously been at least one, on several occasions two, African Americans on the county commission. That is a seven-member board, and all of them run countywide.

And so continuously for the last 40-plus years – I think Elizabeth Cofield was the first one elected – there would have been black – blacks elected to countywide boards. The same thing applies to the school board – although now it's districts – and pretty [20] much every other countywide group.

But – but as importantly, judges, District Court, are elected countywide. And I think there are three elected now. And continuously there's been one, two, three and sometimes more African Americans on the District Court bench.

Countywide and statewide elections consistently African Americans have won beginning in the 1970s. And a couple of the marquee cases, I guess, was Henry Frye was elected in Wake County, won a majority of the votes in Wake County when he was running for the Supreme Court in the 1980s; Charles Becton. The list goes on and on. Richard Irving, Cliff Johnson, various others who have run statewide all have won in Wake County against pretty strong opposition.

More recently in 1990, Harvey Gantt won Wake County in a very high profile U.S. Senate race. He beat

Jesse Helms in Wake County in 1990 countywide. He beat Jesse Helms in 1996 countywide. And, again, the list goes on and on and on continuously on countywide elections.

I would say – and – and – and, again, the Board of Elections would have official stuff but – but probably greater than 90 percent of African Americans who have run – serious candidates who have run [21] countywide in Wake County have won. That includes judicial races. Again, President Obama won in Wake County in 2008. He won in Wake County in 2012 by comfortable margins.

And, again, I go back; Jim Wynn, who was running for the Supreme Court, Court of Appeals consistently won in Wake County. I – I think the one exception may have been, I think G.K. Butterfield may have lost a Supreme Court race in Wake County; but he's the only noticeable one.

But black candidates in Wake County have had exceptional success. And I'm not surprised because, again, having moved around through the county as an elected official, as somebody campaigning, talking to, you know, countless hundreds and thousands of people in the county and their attitudes, it's not surprising that black candidates do quite well in Wake County countywide.

Q. And they have the support of white voters?

A. Sometimes great support of white voters than white candidates do in in primaries as well as general elections. There have been instances where I would imagine black candidates have gotten – in fact, I know for a fact that black candidates have gotten majorities of black votes – of white votes in several instances.

Not just coupling the white vote with the black vote, but [22] the majority of the white vote itself.

Q. And let's talk for just a minute for – about your elections to the House.

A. Okay.

Q. You had white support when you ran and won those offices.

A. Sure. Sure. I – an interesting thing – it may have been 1982 – but somebody who became a Congressman, Bill Cobey, made the observation Cobey was a Republican Congressman. I think he was elected in '82. It was right in the middle of the Reagan Administration. And – and we joked because we were running basically neck and neck in Cary precincts. At that time, Cary was really a Raleigh Raleigh suburb. It's much, much more than that now. It's an independent city. But a Raleigh suburb. So we were looking at the voting patterns in Cary. And either he was leading in the precincts or I was leading in the precincts. This was 30 years ago.

And so, again, I followed those patterns over – over the years. And if you look, again, go in and diagnose at least try to analyze the Obama vote and some of the other votes that I talked about countywide – and by the way, Leonard Goldman also won in – in Wake County countywide. And if you go look at [23] some of the precincts where the black registration or African American registration was less than 20, 10 percent, you would find black candidates winning in those precincts, which is a pretty good sign that they're getting a majority of the white vote, you know, in those precincts.

Q. Do you recall the election of Ty Harrell to the North Carolina House?

A. Yeah. And that raises two other interesting things. I thought – and this is – this is – I think Wake County, while not unique, those of us from Wake County are proud because of the efforts that we make to ensure that it's inclusive in many regards.

After the 2001-2002 redistricting, I guess ultimately 2003 when it was finally settled in, the you know, the business as usual. There are nine House seats in Wake County. There was only one district that was drawn as a majority-minority district; because if you tried to draw more than one, you're going to have to violate some of the traditional redistricting principles, split the communities of interest, just split out precincts creating confusion and stuff like that. So there was one – one majority-minority district. The it – it later became District 33. It was the old district that I represented, but in a different form.

[24] But in the – in the 2000 cycle after that redistricting round, Linda Coleman was elected in an Eastern Wake County district. Now, if you know Wake County, most folk who look at it and analyze it consider Eastern Wake County one of the more conservative parts of the county. I don't necessarily feel that way because I've represented it my entire stint in the Senate and again a portion of my time in the House.

But Linda Coleman won a district in Eastern Wake County that contains, I think, Zebulon, Wendell, Knightdale and other areas around up – up US-1 north in the Triangle Town Center area; won it handily. Beat a – a – a – a person in a highly challenged primary, a fellow who later on got elected in his own right to the

Legislature, and then beat the Republican incumbent in that district in East Wake County. She got reelected in that district. And in about the same time – and – and that district was less than probably somewhere in the neighborhood of 30 percent African American population. I don't know whether that was voting-age population, but about 30 percent African American population.

But at about the same time, Ty Harrell, who you asked me about, was elected in the Northwestern Wake County district up near Morrisville, North Raleigh, [25] up through that area. And that district – he was elected and reelected. And that district has less than – probably less than 10, 15 percent voting-age black population. Ty Harrell, the African American candidate, beat an incumbent when he was first elected; and, again, beat well-funded challengers when he was reelected, I think, in 2006 or 2008.

Q. Senator, let me turn to your Senate elections.

A. Okay.

Q. And this will challenge my technological skills, but I would like to see if we can put up on the screen your Senate Districts.

Senator, on the screen is a map showing the Senate Districts in the current plan, and on the screen now is the map I wanted to show you. Senator, on the screen is a map of Senate District 14 as you ran in that district in 2009, I guess, and the new Senate District 14.

A. Urn-hum.

Q. And that particular chart on the screen shows that your old district was 44 percent African American and split 11 V – Voting Tabulation Districts. The new

district is 51.28 percent and splits 29 districts. Can you compare that old district to the new district in terms of your experiences and – and –

[26] A. Sure. The interesting thing is that in the 2000 2003 redistricting, the Court-ordered redistricting, Wake County had – was – had four self-contained senators.And as you'll notice, this is – makes sense from a geometry standpoint. The county was basically split four equal ways. You know, there's contiguity. here is compactness. There are all of those features that you look for in this old Senate District 14. In that district, there were – if you look, there were split Voting Tabulation Districts. It was primarily based on population of following historical markers and things like that.

But, again, you can see the compactness of it as well as the clean borders. It took in Zebulon, which is the northeastern part of the county, all the way down to Garner. It didn't X anybody out and try to take them out of the district.

When you look at the new District 14 – we called it the "crab" when we first saw it a couple of years ago when it was introduced in Rucho I and II but as you see all of these contortions in it

MR. PETERS: Objection.

A. As you see all of the appendages in it, Mr. Speas, these are appendages that reach out to capture for the most part heavily African American aggregates. [27] And in – or at least populations. It's a-- sort of as the population expands and people moved out of segregated neighborhoods, this appeared, at least through my experience, to be an effort to go back and recapture them so that they're still part of that segregated neighborhood.

But there's a solid core of African Americans who live in Southeast Raleigh, and that's basically toward the bottom, bottom right side of the district, 14-0, District 14, the benchmark. And they're contained as well sort of at the bottom of 14 in the new one. But as you see, there's appendages that go below rather than a smooth line and they jut out into different places.

I – I will tell you the northern part of it, the left side of the crab, the left claw, is an effort to capture minority voters who moved way up in North Raleigh, up by Triangle Town Center and in that area, up US-1, 401 north. And it comes through newer neighborhoods that have a significant African American population, but not overwhelmingly. The black population is not like the solid core inside the city.

And the same thing with the right side of the claw. That's just taking the – the black populations out of – out of the cities like Knightdale [28] and isolate the rest of Knightdale up into the district that remains.

Q. Senator, the black voting-age population was increased by approximately 6 or 7 percent from the 2003 version to the 2011 version.

MR. PETERS: Objection.

BY MR. SPEAS:

Q. Based on –

JUDGE RIDGEWAY: What's the basis of your objection?

MR. PETERS: I don't believe that's what the map will show.

JUDGE RIDGEWAY: All right. Overruled.

BY MR. SPEAS:

Q. Okay. Senator, based on your many years' experience in Wake County, in your view, was there any reasonable basis to increase the African American population in that district in that map?

A. No reasonable basis. But the basis clearly was to pack all of the African American votes and people in the same district. There – there can be no other reason, because since this district was created at the turn of the century, and I guess for this final parameter the Court put on it in 2002-2003, it had performed as it was designed to perform; that is, it had elected [29] minorities and it elected the minority of choice.

Vernon Malone consistently won in that district, consistently won more than 60 percent of the vote in that district as it was configured in 2003. And the black population in the district percentage-wise, I think, was decreasing because of all the new development in Knightdale and in the eastern part and the northern part of the county. This district went up to Wake Forest, by the way, and so that's where the population was increasing.

So the black population in – percentage-wise, I think, was decreasing and he was still getting bigger and bigger margins. I believe that his last margin was 65, 66 percent of the vote in a contested – highly contested race. I won in that district, I think, 67, 68 percent or more of the vote. Barack Obama won in that district in 2008 with 67, 68 percent of the vote. And the African American candidates running countywide, statewide or even in the districts consistently won in that district with margins far greater than 55 and 60 percent. And so there was no need to do it to ensure in the election an African American.

Q. Senator, let me change gears slightly. You're a lawyer and I would like to call on your memory as a lawyer and ask you if you recall the last time a lawsuit [30] was challenge – filed claiming that the General Assembly violated Section 2 of the Voting Rights Act in drawing legislative districts.

A. I do. I – I was sort of the subject of a lawsuit back in after the '91 redistricting, and the case came to be known as Pope versus Blue. It ultimately went to the Supreme Court, U.S. Supreme Court. But – but that was the contention. The effort was made in the early '90s –

Q. Now, let me interrupt, Senator. I'm talking about Section 2 lawsuits, not the – not the Shaw litigation.

A. Oh, okay. Are you talking about the Gingles –

Q. Gingles.

A. Gingles. You're taking me further back.

Q. Sorry.

A. I – I remember the Gingles litigation. I was on the Redistricting Committee as I met several times with representatives of the Justice Department and talked to our various lawyers about Gingles. So, yeah, I remember that.

Q. Okay. And to your knowledge, to your memory, has any lawsuit been filed since Gingles claiming that legislative districts violated Section 2 of the Voting Rights Act?

[31] A. No. No. And – and that makes sense. The voting Rights Act was enacted – I believe the history of it is basically to cure ills that we were experience – experiencing in this country, especially in the South.

And, you know, the thought is that at some point over time, you work to make sure that this is one nation; and you don't need to set aside special places where black folk are considered differently than white people. Because if you are permanently inshrined in some system where everybody gets entitled to this or entitled to, you're never going to have one unified society.

And so the – the purpose of – of the districts in Gingles – and, again, to have control of the Congressional districts and the House districts was to basically make sure that the Gingles factors were complied with. That's what we did in '92 – in '91, rather –and that's what we did in 2001, basically create districts where minorities could elect a candidate of their choice if they had – if you – if you had – if you could do it with a compact enough vote and they were contiguous and not intentionally track them or pack them or stack them and those kinds of things.

MR. PETERS: Objection.

A. So, no, we have not had –

JUDGE RIDGEWAY: Overruled –

[32] A. – as I can recall, any – any challenges to any districting based on the Gingles since Gingles itself.

Q. Okay. You were a member of the General Assembly back in the '80s. I think you were elected first in '82.

A. '80, I was elected. I was elected in 1980; and then we instantly became members when we were certified, so I became a member in 1980.

Q. And – and the Gingles case, I think, was tried in '84.

A. Yeah.

Q. Could – could you – in your experience, have voting patterns changed in Wake County since the Gingles case was tried in '84?

A. Voting patterns were changing in Wake County when Gingles was tried. Again, in Wake County, Wake County elected the first black senator since the turn of the last century. I think in the 1880s, 1890s, Wake County and Mecklenburg County were the two counties that elected the first black senators in modern times and reelected those black senators. And, again, at the same time-- this was back in the '70s – was reelecting county commissioners countywide, reelecting judges countywide.

[33] And so it was an evolving kind of thing, which you would expect – remember the whole Civil Rights Movement occurred in the '60s. And so by the '70s, there was a natural change in progression in Wake County and it – it – it continued then as Gingles was being decided, and it continues today. The housing patterns in Wake County, again, were such that you could not draw independent black districts in many places like you could in other parts of North Carolina.

And – and – and – and so – so as a result, you had probably an extensive system of coalition building across racial lines; in some instances, across party lines. And so you would expect there to be fewer Gingles challenges or none that would be successful because you simply could not share the inability of the minorities to get elected, of whites to elect the minorities or minorities to elect whites.

Q. Senator, did you – you participated in the debates leading to the enactment of the districts that are challenged here?

A. I did.

Q. And the Senate, I think, debated the House plan and the Senate plan and the Congressional plan.

A. We did.

Q. And did you express views on the floor of the [34] Senate about those districting plans similar to the ones you've expressed here?

A. I certainly did. And, again, when you've worked on something 30, 40 years, you get a certain sense of it. But not only the views that I expressed explaining, but the black members of the Senate and all of the African American members in the Senate voted against the plan that was enacted and pretty much for the same reasons; and that feeling was that you were going to thwart the progress that was being made with people voting across racial lines and the forming of coalitions and what have you to elect their candidates of choice.

And so I expressed to my colleagues in the Senate that the Voting Rights Act was, again, enacted for a purpose. And if you were going to freeze it in time if you were going to freeze the Voting Rights Act in time, then you were never going to move us toward the society that we were capable of becoming and that we in many places were becoming.

Again, and so I as well expressed the fact that – that in these districts, every one of them in the Senate – there were nine minority districts in the Senate that were designed to elect minority members. There may have been one that had more than 50 percent voting-age population as a result of the 2003 plan.

[35] But I think all but one of them had less than 50 percent, and they range from the 30s up through – like

mine was sort of in the middle of the pack, District 14 that I represented, or it may have been on – on – on the upper end. But all of them had consistently, even in contested elections, elected African Americans for an entire decade.

And so if you were going to go back and base all of the decisions on pre-'90 statistics and criteria or feelings, then it was basically setting us back. And that was what I tried to express and that's what my other colleagues – African American colleagues in the Senate tried to express.

Q. Senator, do you recall during those debates engaging in any dialogue with Senator Rucho about whether or not the Voting Rights Act required these districts?

A. I did. I asked him specifically whether he could tell me what districts Section 2 of the Voting Rights Act required that they be made a minority district or that you increased the population of – you – why – why are you increasing a district that's 41 percent electing an African American of choice of the community with a 60 percent plus vote? Why – why do you increase the black population in something like that? That's what I was thinking. But I asked Senator Rucho specifically [36] to tell me how Section 2 required these kinds of districts to be drawn, and he never answered me satisfactorily.

Q. Senator, if you would, there's a white notebook there in front of you. Would you turn to – it's a little bit confusing – at Part D, Section 1.

MR. SPEAS: Which, Your Honors, is toward the back.

A. Okay.

Q. And is that the July 25, 2011 transcript of the Senate debates?

A. Yes. Transcript of the Proceedings.

Q. Yeah. And would you turn, Senator, to page – pages 149 through 153 – 153 of that debate.

A. Okay. I got it.

Q. And are those the pages on – of the transcript on which you engaged in this dialogue with Senator Rucho that you just described?

A. It is. Beginning on line 16 on page 149, the Lieutenant Governor recognized me to pose a question to Senator Rucho.

Q. Okay. And what was Senator Rucho's role in the redistricting?

A. Well, he was the chair of the Redistricting Committee in the Senate and basically was the shepherder [37] (sic) of the bill. He controlled the debate on it. He controlled it in the committee. He controlled it on the House floor. He's the one who explained it and justified – I said "House floor" – the Senate floor in the typical committee chair role. And – and as well as Senator Rucho was the one who early on said he was joining the districts – I think he and Representative Lewis – but he was joining the Senate districts.

MR. SPEAS: Senator, thank you very much.

JUDGE RIDGEWAY: Okay. Cross-examination?

MR. PETERS: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. PETERS:

Q. Senator Blue, again, I'm Alec Peters –

A. Sure.

Q. – of the Attorney General's Office, and I have, I think, just a few questions that I would like to ask you.

First of all, I would like to go back to the version of Senate District 14 from 2003, the one that was enacted in 2003. I think I heard you refer to that earlier as the "benchmark plan." Did I hear that correctly?

A. I did that because that's what's written on it, on the map.

[38] Q. Okay. I just was – wanted to clarify what you meant when you called it that.

A. Yeah. And – and – and – and the right side there on top of it, it says "Senate District 14 Benchmark." That's the only reason I used that.

Q. Thank you.

And I apologize for my mathematical error earlier. This is what happens when I try to look at too many columns at one time. But I would ask you: Do you recall what the white voting-age population of Senate District 2000 – Senate District 14 from 2003 was?

A. I don't, right off.

Q. Do you recall if the district was majority white?

A. The district was – you know, I – I – I'll be honest with you, Mr. Peters, I – I – I really don't know. I think it may have been 51, 52 percent white. Not an absolute

population. The voting-age population is what's throwing me a little bit.

Q. Right.

A. Understand that there is a Hispanic presence in the district as well and so there's another minority population in the district. So the – the total black and Hispanic population I'm sure exceeds 50 percent.

Q. Okay. Thank you.

[39] Now, you testified earlier regarding various elections where black candidates had been elected in white counties since the '70s; and I believe you mentioned county commissioners, school board, District Court Judges. All of those are countywide elections, are they not?

A. The ones that I was talking about –

Q. Right.

A. – because those, I thought, were instructive on what the county does as a whole.

Q. Right. But legislative races are not countywide, are they?

A. Not anymore.

Q. Right.

A. Not in Wake County.

Q. Correct.

And, again, looking at the map of the previous version of District 14 and the current version – and I believe you alluded to this – isn't it correct that in the 2003 plan, district – Wake County was a self-contained county. There were – it did not share any districts with any other counties, did it?

A. That's correct.

Q. And am I correct that there were four districts in Wake County?

[40] A. That's correct.

Q. And isn't it correct that under the current plan, Wake County is combined with Franklin County?

A. It is.

Q. All right.

A. We came up about 5,000 people short of having five self-contained districts in Wake County.

Q. All right. So – so Wake County was really close to being self-contained; but because of those few people short, it couldn't be. Correct?

A. That's correct.

Q. It had to be combined with Franklin County. And am I correct there are five Senate Districts between Franklin –

A. Five between Franklin and Wake. It didn't have to be combined with Franklin. Franklin was one of the possible configurations.

Q. It had to be combined with another county –

A. We had to get population from somewhere else, yes.

Q. – is that correct?

And having worked in redistricting yourself, you would agree, wouldn't you, that when you bring another county into the equation, that's going to affect how all the districts are drawn within the county?

[41] A. Well, you could draw four districts in Wake County that would meet certain criteria. If you would

look at the Stephenson criteria and just go down compactness, contiguity and all of that, you could draw four districts. And wherever Franklin County joined in with a piece of Wake County, then you could have a well-contained, compact, contiguous piece from Wake County joining up with Franklin County.

Q. Have you – have you drawn districts –

A. Oh, yeah. I've done all kinds of different configurations like that. If you – if you joined it as Wake Forest and took the entire northeastern part of the county, you could do it. If you joined it more closer to the, I guess, Franklin County, you could join it somewhere near Zebulon or up near Wake Forest, different places. It depends on where you join it and then what the rest of it looked like, sure.

Q. Did you provide any of those possibilities you came up with to the Redistricting Committee during your deliberations?

A. What we did is jointly provided – I – I looked at the – I don't know what it was labeled or what it's named now, but the – the maps that were offered by Senator Nesbitt, and they sort of embodied my thoughts about how you could draw districts in a reasonable way.

[42] I looked at the ones that were drawn by Senator McKissick, and they captured somewhat different versions of how you could do it and still have greater contiguity, compactness; not concentrate so many minority voters and population into District 14.

Q. Let – let me go back a little bit and – go back a little bit in time. Did I understand you correctly to say – I know you said you left the Senate at the end of 2002 to run for – I mean, you left the House –

A. Yeah.

Q. – in 2002 to run for the United States Senate.

A. Yes.

Q. And did I understand you correctly to say that when you came back to the House in 2006, you were appointed?

A. I was appointed – the – the statute does this and you guys are the experts – but the statute says if a person dies within a certain period from the election

Q. Right.

A. – his replacement runs, but he runs under the name of the person who died. So that's how I ran in 2006. I was running. But Bernard Allen died in, I want to say September, and so it was within that window.

[43] And so when I went down and talked to the folk at the Board of the Elections after I was appointed, Sherri told me that I would actually be the candidate, but I would be running under Bernard's name. So that's – that's how I got elected in 2006.

Q. Okay. Now, I think you said all and all, you've run 15 times?

A. It's my 15th 15 times.

Q. All right. And

A. It may be 16.

Q. Is that counting the U.S. Senate primary?

A. If I counted the Senate primary, that would be one extra.

Q. Okay. That would be one extra.

A. Yes.

Q. So not counting the U.S. Senate primary, have you ever lost an election?

A. I won the Senate primary in Wake County?

Q. But the – but not –

A. That's the only one I lost.

Q. Okay.

A. Yeah. And I lost it to a pretty good guy.

Q. Right. So – so pretty much with the exception of about four years in there, you've held office in Wake County since 1980; do I have that right?

[44] A. That's correct, since 1980.

Q. So it would be fair to say that – and you were Speaker during –

A. I was Speaker.

Q. – part of that time.

A. Yes.

Q. So it would be fair to say, wouldn't it, that you do have name recognition in Wake County.

A. I think I do now.

Q. Okay.

A. But – but, you know, you would be surprised; out of sight out of mind. But this county has changed so, so, so drastically and radically over the last 40 years. Population-wise, you know, it was 250, 300 thousand people when I was first running. Now it's a million people. And believe it or not, I had run in the '80s. When I was running for the United States Senate reorganizing some of these precincts, I would call and they'd say "Dan who?" and – and I would explain it to them.

But, again, this county has changed. I think it's progressed quite well and satisfactorily. But, again, you look at poles – I – I do them pretty often, too; not for myself and stuff – but we looked at poles in the – in the U.S. Senate race, and you would be [45] surprised at how little number that was even in Wake County as late as 2002 because of the influx of new people.

Q. But would I – would it be consistent with your experience that an incumbent is likely to have more name recognition than someone who is not an incumbent?

A. I think so, yeah. Yeah. That's a fair statement. And I think that that's –you know, that was one of the things that surprised us about Ty Harrell, especially because Linda Coleman had been a chair of the county commissioners and she ran, again, in a district that was overwhelmingly white. But Ty Harrell had never run for anything that I'm aware of; and he ran in a virgin district that had not had any black candidates, as far as I'm aware of, and won comfortably as well as got reelected comfortably.

MR. PETERS: Your Honor, may I approach?

JUDGE RIDGEWAY: Yes.

MR. PETERS: We have – and – and I meant to deal with this earlier, too. And if I can approach the Court as well.

JUDGE RIDGEWAY: Yes, sir.

MR. PETERS: These are the notebooks of the Plaintiffs' exhibits – I mean, of the Defendants' exhibits, and I had meant to make life easier and hand [46] them up at the beginning.

BY MR. PETERS:

Q. And I'll hand that to you, Senator. And I'll ask you if you can turn to Tab No. 13 in that.

A. 13?

Q. Yes.

A. Okay. Yes, sir, I have it.

Q. All right. An e-mail?

A. An e-mail.

Q. All right. Do you recognize that e-mail?

MR. SPEAS: We – we don't have it.

MR. PETERS: Do y'all not have it?

MR. SPEAS: Was this produced earlier?

MR. PETERS: Yes. Yes.

MR. SPEAS: It wasn't given to us. I'm sorry. Can we have a minute, Your Honor, to look at this?

JUDGE RIDGEWAY: Yes.

MR. PETERS: It was designated last week.

THE WITNESS: I don't recognize it.

MR. SPEAS: Yep. Your Honor, we would object to this on relevance grounds.

JUDGE RIDGEWAY: All right. The objection is noted. It's overruled.

Was it designated, Mr. Peters?

[47] MR. PETERS: Yes, it was. It was – it was designated as, I believe, part of our rebuttal.

JUDGE RIDGEWAY: All right. Go ahead and proceed, please.

BY MR. PETERS:

Q. Let me ask you, Senator, if you'll look down in the big block of addresses under the "cc" –

A. Urn-hum.

Q. – and I believe the fourth line, which begins "roxannabendezu" I'm not sure how that would be said – "@gmail."

A. Yeah. I see that one.

Q. Would you look at the end of that and there's an address that says "blue1159@aol.com."

A. Urn-hum.

Q. Is that your e-mail address?

A. No.

Q. Do you know whose e-mail address that is?

A. I have no idea. I do know that when I tried to get "Dan Blue" 20-some years ago, AOL had said it wasn't available. And so – so I got no idea who the 11 – the 1159 is.

Q. All right. Did you have any – you talked about working with Senator Nesbitt and Senator McKissick on their plans.

[48] A. Urn-hum.

Q. Did you work at all with the Southern Coalition for Social Justice or with AFRAM on the plan that they proposed to the Legislature?

A. No, I – I didn't. I was aware that they were working; but, no, I didn't – I didn't work with them specifically.

Q. You didn't provide any input into it?

A. I – I may have said – in fact, let me change that. I'm not sure. I may have told somebody who may

have – and I say "may have" and I know I'm not allowed to say that – but I remember expressing my opinion wherever somebody would listen that you don't need to put huge black populations in these black districts freezing time in the 1960s and 1970s; that if we're going to move forward as a nation, as a state, we got to break up black concentrations in districts and white concentrations in districts and let people naturally form the coalitions and habits that they ought to form.

I expressed that at many public forums. I – I was on a panel at one point – and I think maybe somebody from the Southern Coalition had been there, but I don't know exactly who – and I – I consistently expressed those kinds of feelings that – that having observed voting in this state, districting in this [49] state – in fact, since the early 1970s – that I thought that it was time that we start putting some life to the Voting Rights Act and make sure that you – you just don't stuff people into districts because it's convenient.

Q. And I think you just said – correct me if I'm wrong – that what you would tell people is you don't need huge black populations. What do you mean by "huge population"? What would constitute a "huge" population?

A. Well, when you got a district that's such as the district in Charlotte where an African American beat an incumbent with 30, 35 percent of the district having a black population – it was when Malcolm Graham beat Fountain Odom, who was a very powerful incumbent. He was the chairman of the Appropriations Committee in the Senate, and Malcolm Graham beat him in the primary and then went on to win a general election.

Where you have a district that is consistently electing a black senator, a district that wasn't even designed to be a minority district, electing the choice of the people of that district, what sense does it make to take it from 30, 35 percent up to 50 percent plus? You – you – you – you're basically characterizing the district as a racial – a racialized district. And that offends some of us when you're doing [50] it without having the reason of – of – of trying to correct some injustices that happened in the election system as Section 5 and Section 2 of the Voting Rights Act was designed to do.

So – so that's the kind of thing that I was going at. If you got a district that is – is – is 60 percent African American and they still can't elect an African American, then somebody needs to do something to fix that. But you need valid studies to show that the district won't perform and that people are not able to elect the person of their choice and that race is the reason that they aren't able to elect the person of their choice.

Different districts have different requirements, I think. And – and I'm comfortable enough with the district here – that is District 14 – to know that you didn't need to move the population – the black voting-age population six or eight or ten or however many points it was moved. That district was going to perform a predictable way with any reasonable black candidate, whether he had incumbency, whether he had name recognition.

If he or she were a serious candidate and expressed the needs and desires of the people in that district – black, white, Hispanic or anything else – [51] that person would get elected in District 14. And I think that that's the case with many of the other Senate

Districts where the population – black voting-age population was raised from the low 40s to go over 50 percent. That's –that's –that's the point that I was trying to make in most of those public forums.

Q. All right. And going back earlier, I think you said that when you had done up possibilities of how districts might be drawn that you talked about those with Senators Nesbitt and McKissick. Did you talk with – present those to the Redistricting Committee?

A. I wasn't on the Redistricting Committee. Again, I had asked to be put on it. I sort of monitored what they were doing, but I couldn't make amendments in the Redistricting Committee. I constantly told people what my thoughts were. I read the Stephenson decisions. I read Strickland. I read a good number of the Supreme Court cases.

Q. Well

A. And – and – and I also read the criteria that Stephenson I and II set forth and sort of expressed my opinions based on that, but...

Q. Well, let me try the question this way –

A. Okay.

Q. – districts that you said you drew up just to [52] see what might work, did you present those to anyone other than Senators McKissick and Nesbitt?

A. I told the people how you could draw different districts in Wake County. The rules in the Senate Redistricting Committee – again, I wasn't on it – were that you had to have a comprehensive system because of the Strickland criteria – or rather the Stephenson criteria, you had to have a map for the whole state. I'm interested in all of North Carolina, but I – I – I confess, I don't know as much detail about the mountains and

some of the places on the coast as I do about here in Wake County and how you configure the districts within Wake County and not concentrate all the African American population in the same district.

Q. And who did you tell, other than Senators Nesbitt –

A. Anybody who would listen. I certainly told the people on the Redistricting Committee. I sat behind either Nesbitt or McKissick was the one that – because Dan Lee came off of redistricting, and I asked to – to replace him. And he asked that I replace him, but I wasn't put on it.

So I sat behind them in the Redistricting Committee and expressed my concerns throughout the one or two hearings. And nobody was going to have any impact on [53] the plan that Senator Rucho introduced. So, you know – and everybody recognized that pretty quick. Even simple amendments couldn't pass.

And so the plan that he introduced as Rucho II, I believe, was going to be the plan enacted. My input was not welcome, it was not sought, and I'm sure it wasn't heeded very much.

MR. PETERS: I don't have any further questions. Thank you.

JUDGE RIDGEWAY: Okay. Redirect, Mr. Speas?

MR. SPEAS: No, Your Honor.

JUDGE RIDGEWAY: All right. Thank you.

MR. SPEAS: Thank you very much, Senator.

JUDGE RIDGEWAY:Thank you, Senator.

MR. STEIN: Your Honor, one point for the record, so that I can anticipate –

JUDGE RIDGEWAY: Yes, sir.

CROSS-EXAMINATION

BY MR. STEIN:

Q. What is your race, Senator Blue?

A. By the way, I am African American.

MR. STEIN: Thank you.

JUDGE RIDGEWAY: All right. Thank you –

THE WITNESS: Thank you.

[54] JUDGE RIDGEWAY: – Senator.

Further evidence for the Plaintiff?

MS. EARLS: Your Honor, the Plaintiffs call Dr. Eric Mansfield.

WHEREUPON, ERIC MANSFIELD, MD, was called as a witness, having been first duly sworn, and testified as follows:

JUDGE RIDGEWAY: Please be seated.

THE WITNESS: Thanks.

DIRECT EXAMINATION

BY MS. EARLS:

Q. Would you state your name for the record, please.

A. Eric Mansfield.

Q. And how are you employed currently?

A. I'm an ear, nose and throat surgeon in Fayetteville, North Carolina.

Q. You were born in Louisiana and grew up in Columbus, Georgia; is that right?

A. Right.

Q. Would you briefly tell the Court your educational background.

A. I went to undergrad at Howard University, majored in chemistry; went to the Morehouse School of Medicine. Then went to Tulane University Medical School [55] in New Orleans and specialized in ear, nose and throat surgery. And then came to Fayetteville to the 82nd Airborne; did four years in 82nd, and then got out and started my own practice in Fayetteville.

Q. And – and you – you are also an assistant pastor; is that correct?

A. Right. Yes. Yes, ma'am.

Q. And can you tell me briefly about your community service in Cumberland County?

A. Well – well, we – we do a lot of things. Starting through the church, we do a lot of things. We do a lot of after-school programs. We have a scholarship that we give through our office every year to about five or six youth going to college. I work on the Arts Council, and I'm on the board of trustees of Methodist University. I'm on the foundation board of trustees at Fayetteville State University.

We just started a backpack program and also an after-school program where there's a-- about 5 percent of the Cumberland County kids who do not have food during the weekends, and so we started Backpack Foods with a group of other docs; just giving money so they have food over the weekends.

Q. So turning to your political experience, when did you first get involved in politics?

[56] A. I – around 2008 – well, my wife got involved first because I was doing – being a doctor. And my wife got involved in the Obama campaign with my son. They went down to South Carolina. And my son came back and said, You know, Dad, you got to – I met this guy. He's going to be president. And I was like, Sure. I mean, what's his name? He said, Barack Obama. And I said, Yeah, right. And so my wife, you know, explained, Yeah. He walked in the – he went through the Secret Service, walked right up to him and – and he met him. And my son got excited. So I looked at my son and said, Wow, if he got excited, let me just kind of see what's going on.

And then once I came to Fayetteville, we – we opened up the first Obama office in Fayetteville, my wife and I. And it – just kind of watching how everyday people – which, you know, there's some Cumberland County people here today just watching all – people from all different aspects of life, from very wealthy to very poor to different backgrounds -- white, black, whatever – all came together to kind of push forth this movement got me excited about, you know, what politics

I mean, I went to Howard University, so I was exposed to politics in Washington. So I thought that's what politics – that's how politics was. But [57] I – I – I – I saw it – see now that politics are very local and that, you know, you can do a lot of great things if people really want to come together and do something positive.

Q. And – and so at some point, you decided to run for the North Carolina Senate?

A. Yes, I did.

Q. Can you – I – I want to talk about that campaign. What district did you run in?

A. District 21.

Q. And I think I can put that up. Okay. I – I've put up on the screen, which you should be able to see in front of you, a map of what District 21 looked like before the redistricting. Would that help you describe your district?

A. Sure.

Q. Okay. Can you – do you know what the racial composition of – of Senate District 21 was when it was enacted in 2003?

A. It – it was roughly 45 percent African American. I think Senator C.R. Edwards was the first senator, if I'm correct. I – roughly 45 percent African American and 55 percent white.

Q. My – my math is not great, but 45 –

Okay. Do you know what the – the – the [58] voting-age population was? Was it less than the total population?

A. Yes, I think so. In 2003 or when I ran?

Q. In – when you ran.

A. Oh, when I ran.

Q. From your personal knowledge.

A. When I ran, it was 42 percent African American and 48 percent white or – yeah. And so – and, yeah, it was certainly more folks not voting than they were voting.

Q. And who had been elected in that district before you ran?

A. Before was Senator Larry Shaw, and then before him was Senator C.R. Edwards.

Q. And are both of those gentlemen African Americans?

A. Yes, ma'am.

Q. And you identify as African American, for the record.

A. Yes, ma'am.

Q. Thank you.

Then in your campaign for Senate District 21, who supported you?

A. We had a lot of support from a lot of different areas. You know, I – I have, one, a large patient [59] population base because I've been practicing for 10 years in private practice, and so – and my practice is 60 percent white; which I only brought that to bear because I – I really hadn't studied it until this redistricting took place. And so I had a lot of patients from all different walks of life. I had a lot of military because I was prior service, and so we had a lot of military folks. And then we had a lot of folks from my church, obviously. We have one of the largest churches in – in – in the city.

And so we – we – we had a – a very, very diverse campaign. We had – in – in my district, we have the very wealthiest street. We have the very poorest street. And – and, you know, on my street alone, you know, we – we had we had signs in every single yard on my street from the very beginning to the very end, but we also had the same signs in the very poorest areas.

So we had, you know, white, black; very, very rich; very, very poor; teachers. We had a really we even had a fair amount of Republicans who supported us as well. And, you know, a lot of it, you know, is local politics. You know, people believe in the person. They believe in their policies before they believe in their politics. And so, you know, a lot of people supported us [60] because they believe in what we were doing in in general.

Q. And – and what kinds of things did you do during your campaign that – that – that put you in touch with voters?

A. Well, we knocked on doors. We started knocking on doors in January. From the – the first snowfall in January, we started knocking on doors. And so we knocked on doors from January every day except on Sundays, of course – from January all the way until November. We knocked on about 10,000 doors during our campaign.

And, you know, one of the great things that we learned is that no matter if you're on the richest street or the poorest street, the overwhelming majority of people wanted the same thing. You know, they wanted a great education for their children, they wanted safe neighborhoods, they wanted a lower tax base, and then they wanted to be left alone.

And that's those kind of four things summed up whether we were in Shaw Heights, which is the poorest area, or when in Skye Drive, which is the wealthiest area. Everyone basically kind of, you know, said the same thing. I mean, and it was very interesting, you know, knocking on those doors, you know, you get to see how people live day to day; but you also [61] get to see how people think day to day.

And the overwhelming majority, you know, when we walked in the west, which is more white, not a single person ever, ever commented, you know, You're – you're a black candidate. Not – not one time out of the – the 10,000 doors we knocked on, not a single person ever opened the door and said, I didn't know I had a black, you know, senator, or, you know, I'm not going to vote for you because you're black.

Now, I certainly had people say, I'm not going to vote for you because you're Democrat, which is fine. But, you know, it was never – you know, we – we never thought about race. I mean, I never ran as a, quote/unquote, black candidate. So we – we – we never even, you know, brought that up.

Q. And then did – what was your margin of victory in the general elections?

A. We won 21,000 to 10,000.

Q. And did you win any of the majority white precincts?

A. We won the majority of them. We lost four precincts and we lost those four precincts by a total of about 350 votes, about less than 1 percent of the overall vote total – total. I lost in my own precinct, which is a – which is over – I lost by 120-some vote, which was [62] overwhelmingly Republican; but it was the first time that any Democrat had actually come that close to winning.

Q. And what is the racial breakdown of your precinct roughly?

A. Oh, it was – it's probably 88 percent. I mean, we're probably higher than 80 percent white.

Q. So then based on your experience in Cumberland County politics, did Senate District 21 need to be

increased from 45 percent black VAP, which is the 2010 Census numbers, to almost 52 percent black VAP to provide black voters a fair chance to elect their candidate of choice?

A. No. No, it did not. And it – it – it – it bothered me somewhat. And I – and I I talked to Senator Rucho about this personally. It bothered me somewhat because of what it said about our community. And – and it really to me, you know, I've never gone to an integrated school. I've always – I mean, a segregated school. I've been in integrated schools since I was a little boy, and I grew up in Columbus, Georgia. And, you know, my parents – my dad died when I was 10, but my mom was a very big stickler on that, you know, never use your race as a disadvantage. Either you make it or you don't make it because you're smart enough, you worked hard enough or you just didn't make it.

[63] And so, you know, we try to instill those same things in our children. And so it's – one of the problems I had is that when we made it 52 percent, it basically said that only black folks can vote for black candidates and only white folks will vote for white candidates when I know for certain that's not true in District 21.

Q. In front of you is our notebook with exhibits. We've included the legislative floor debates where you spoke. If you can look at Tab D. It's the last lettered tab, and then go to the No. 2 behind Tab D. Have you found that?

A. Yes, ma'am.

Q. And so the first page there says it's a Transcript of the Proceedings, the Senate Session, July 25th. I – wanted to – to ask you to flip through quite a ways to – to the last debate – floor debate that's included in

that packet. So it will – it will be a Transcript of the Proceedings for July 27 in the House. It's almost all the way toward the back, and I'm going to go to page 23 in that packet. Have you found that?

A. Yes, ma'am.

Q. And so you'll see on line 15 of that page, it starts: But the 21st Senatorial District wasn't drawn just for Senator Mansfield.

[64] A. Right.

Q. And this is a statement by – if you looked at the page before, page 22, it's a statement by Representative Lewis. And – and he – he goes – he's explaining that – and I'll just read from it – it's my understanding that the way to ensure that minorities have the opportunity to elect the candidate of their choice, and as a criteria required when you cross the county line, you must draw the majority-minority districts at at least 50 percent plus 1.

And he's talking about how you – you were an extraordinary candidate, and then an ordinary candidate of choice of black voters wouldn't be able to win in your district. Is that – is that a fair assessment based on your knowledge of your voters in Cumberland County?

A. No. No. One, I'm not an extraordinary candidate. I'm – I'm just a regular Joe who gets up, goes to work and thought he could do something great for his community. And I'm no different than any other person who gets up and believes they can do something great for their community. They – you know, it's –

One thing I've learned about people, they don't really care about your title. They care about how much you care about them. And so when it comes to [65] that

perspective, you – you – you don't need 50-plus-1 percent. It's – it's never been in the history of District 21 that we've ever had 50-plus-1 percent. And yet throughout the history of that district, we've always – we've always elected people who represented that community.

And – and so, you know, to – to – to kind of use that as – as an argument is – to me is, first, the wrong argument. The wrong argument – the right argument is: Can we develop districts that are fair and equitable so that when people run, they get a fair and equitable chance of being elected? Not based on whether that candidate has some – some – some superficial criteria that we believe is great, because the people have their own criteria of what greatness is.

Q. Did you have any conversation with Senator Rucho about Senate District 21?

A. We did. We did. And –

Q. What did you tell him?

A. Well, you know, I – I – I – you know, I – I – I didn't like where my district went from a very compact district to kind of this crab-looking district that we have.

Q. The – the next slide shows the enacted district and –

[66] A. Right.

Q. – and I believe this one shows a comparison. So this slide shows on the right-hand side what Senate District 21 used to look like and then on the left-hand side, how it was enacted.

A. Right.

Q. So what – so I'm sorry. What did you –

A. Right. And so I – you know, we talked about how we went from a very compact to this crab-like district and also how nearly every single precinct was split in my district, which – which bothered me for two reasons. Because, one, even with all – on my own street, the people who live across the street from me who voted for me – and – and – and – and my street, the average age is probably 70 plus, because they're all retired dentists or docs or teachers. And they all voted for me – well, you know, at least they said they did.

So – so I – but, you know, across the street were some very good friends of ours who were all retired and they live less than 20 feet across the street from me. And all of them, you know, came – you know, when they figured out what was going on said, I can't vote for you anymore because you're no longer in my in my district – or I'm no longer in their district. And, you know, these are people who the only reason why you're [67] saying they cannot vote for me is because I'm black; not because I'm not competent and not because I don't have great character.

Because, I mean, I'd rather people say, You're not a good neighbor and I don't like you so I'm not voting for you. But to say that you can't vote for me just merely because I'm an African American candidate, that – that bothered me a lot, because it says to us that we as a society have not moved forward in a way that we want our children to move forward.

And so I – you know, I talked to him, I said, you know, that I – I didn't think that had to be done. But I also kind of offered, I said, Look, you know, Senator Meredith lives .3 miles away from me, who is in District 19. And certainly if you want to draw me into his district, I wouldn't have a problem if you draw me into his district because I believe based on my –my –

my personal and honest beliefs that if I ran against him in his district, even though it was set in a more Republican district, I – I – I think I would have a fair shot at winning.

Because I believe that we – at this point, we – we shouldn't read what's, quote/unquote, a post-racial society, which – which means that we don't recognize race. We should recognize race. Races are [68] different and we should – we should applaud that. But our goal is not to be a post-racist society where your race gives you an advantage or disadvantage.

And I believe had I been in Senator Meredith's district, I would have had a good fight and I – I may – may even have won. And to me, that would have allowed for District 21 to stay very similar to what it is and not have this kind of crab configuration, I guess.

Q. And did you ask Senator Rucho about the racial composition of the – of the Senate District 21 as it was being proposed, the new district?

A. Well, we talked about it on the Senate floor and I – I kind of made my – my impassioned plea.

Q. Let's talk a little about other candidates, African American candidates, in Cumberland County who have won countywide. Are you – are you aware of any candidates, other African Americans, who have won countywide in Cumberland County?

A. Sure. We have Mayor Marshall Pitt won as a mayor, obviously; and then Commissioner Charles Evans won as well a countywide seat.

Q. And did Obama carry Cumberland County?

A. Yes. Obama carried Cumberland County in 2008 and in 2012.

[69] Q. And what about any African American candidates who have won in majority white districts? In the city council

A. Yes. Bill Crisp, Councilman Crisp. Yeah, he's a retired Air Force (sic) Sergeant Major.

MS. EARLS: I have no other questions.

JUDGE RIDGEWAY: Cross-examination, Mr. Peters?

MR. PETERS: Just one second.

(Pause.)

CROSS-EXAMINATION

BY MR. PETERS:

Q. Senator Mansfield, I've got just a couple questions for you.

A. Sure.

Q. And, again, I'm Alec Peters from the Attorney General's Office.

Did I understand you correctly earlier to say when you were describing the district, describing the area, that you said more folks are not voting than voting?

A. Yeah.

Q. Or did I mishear you?

A. I probably misspoke. I apologize. But – yeah, but in – in – in – in – historically in [70] Cumberland County, certainly our – our – our voting rate is around 12 percent; so that would be yes.

Q. Well, and isn't it true that District 21 includes – and in the previous version of District 21, the 2003 version, includes a good chunk of Fort Bragg?

A. Sure.

Q. Okay. And do you know whether soldiers who are stationed at Fort Bragg tend to register to vote in Cumberland County or do they vote elsewhere or do you have any sense of that?

A. I – I do have, actually, a great sense of that. We had more vote in our election than had voted in any previous election. But a majority of them don't feel engaged into the community, and so they tend not to vote. The ones who actually live on Fort Bragg, they tend not to vote. And it is a difficult process because, obviously, the base itself does not allow for you to go door to door and to – to – to do any kind of political activity on base.

And, certainly, as a prior service guy and as a former commander deployed, we have some pretty strict rules about what happens at your home on base. Now, off the – off base, you know, things are different; but on base-- so it's almost extremely difficult to get them engaged enough to say that they actually want to be [71] a part of the community.

Q. But so is it accurate to say that when the population of Fort Bragg is taken into account in the district, then you have a population that you know is not likely to be as engaged in the election and not as likely to vote?

A. Sure.

Q. And let me ask you: The previous version of House District – excuse me – Senate District 21, do you know what percentage of that district was white?

A. In this – in my map?

Q. In the previous – in the previous version the – the version of Senate District 21 in which you were

elected, do you know what percentage of population of that district was white?

A. It was probably around – I would say it was about 8 percent Latino, so – so it's 8 percent plus 44, 52 percent. So 48 percent. Around roughly 48 percent, give or take a few percentage points.

Q. Okay. So whites were a minority in the district; is that correct?

A. If you add Latinos and African Americans together? Then I would say, yes. But if you just go black versus white, then, no.

Q. Okay. Do you know which – do you know whether [72] any – let me rephrase this. Do you know whether Blacks constituted the majority of the registered voters in the district?

A. Registered voters?

Q. Yeah.

A. No. No, they don't. Not the registered voters.

Q. In – in the previous version of 2000 – of District 21, the version you were elected in, it's your understanding that they were not a majority – the Blacks were not a majority of –

A. Right.

Q. – registered voters?

What's your understanding of what that number was?

A. I don't remember.

Q. Okay. Now, when you ran in 2010, do you recall how much money you made – or – or money raised, I should say, and money you spent for the election?

MR. SPEAS: Objection on relevance grounds, Your Honor.

JUDGE RIDGEWAY: Overruled.

A. I don't know, actually. Probably 100,000 maybe.

Q. I assume you filed reports with the State Board [73] of Elections.

A. Yeah, we did. We did.

Q. Do you know how much – I believe it was – was it Wade Fowler?

A. Sure.

Q. Do you know how much he raised?

A. I don't at all. Yeah.

MR. PETERS: I've got no further questions.

JUDGE RIDGEWAY: Redirect, Ms. Earls?

MS. EARLS: Just one follow-up.

REDIRECT EXAMINATION

BY MS. EARLS:

Q. You were asked about the – you mentioned as far as 8 percent Latino –

A. Right.

Q. – voting-age population. Do you have any knowledge to what extent that's a citizen population?

A. I don't. Actually, I don't at all. And I – I don't.

So as far as the raising money part, can I say that – or is that – does that matter?

Q. I don't –I don't have –

JUDGE RIDGEWAY: If you'll respond to the questions.

THE WITNESS: Oh, okay. I apologize.

JUDGE RIDGEWAY: Yes, sir.

BY MS. EARLS:

Q. Okay. So then I'll ask you if there is in – in terms of the money that you raised –

A. Right.

Q. – did that impact your campaign or impact anything about white voters who supported you?

A. Well, I was actually very proud of the money we raised because of how we raised it. We raised money from so many different groups. We didn't raise money from just one section of our city. We got money from very wealthy people and then we'd get 10 – $1 or $2 from very poor people. We got – we got it from people who you would think would never support each other, from different political spectrums.

I mean, we – we – we were surprised because we were getting money from some very conservative people and then we were getting money from some – a group of women who were very, very to the opposite side. And so we are actually very proud – we got money from doctors in Cumberland County who had never given a single dime to any Democrat in their entire history.

And so we were accepting – yeah, we raised a lot of money, and we're proud of it because we [75] raised a lot of money from a bunch of different people.

I will certainly sit here and say if I got all the money from one small group of folks, then I would say, you're right, you pidgeon-holed me in. But our campaign,

we got – I – I – I would dare to say we got more money from white voters than we got from any African American voters.

MS. EARLS: Okay. Thank you.

JUDGE RIDGEWAY: Okay. Thank you.

Anything further?

MR. PETERS: One question. I'll be quick.

JUDGE RIDGEWAY: Go ahead.

RECROSS-EXAMINATION

BY MR. PETERS:

Q. But based on your experience, would you say that the more money you raised leads to more money you have to spend on advertising which leads to better name recognition?

A. Not in Cumberland County. In Cumberland County, the reason why we won is we knocked on doors. We knocked on 10,000 doors. And I don't care how much money you have, you can't beat – you know, we – we – we – us – us – us – us – us prior service guys, we all talk about the same thing: The Air Force is good, but you got to have boots on the grounds. And you win – you [76] win combat – you win campaigns by having boots on the ground.

So we just believe – we really honestly believe that that big campaign, the big corporate type of campaign where you spend a lot of money with flyers and that kind of stuff, we – we believe in more so is knock on a door, looking at a person in their eye no matter what color they were and say, This is what we believe. And if you don't believe it, you don't believe it not because I'm black; you don't believe it because that's not what you believe.

And I would much rather have somebody say, I didn't vote for you because I disagree with you about your campaign, as opposed to saying, I disagree with you because of your color. And I believe as a country and as a state that we've moved beyond that.

MR. PETERS: Thank you.

JUDGE RIDGEWAY: Okay. Anything further?

MS. EARLS: No.

JUDGE RIDGEWAY: All right. Thank you, sir. You may step down.

THE WITNESS: Thank you.

JUDGE RIDGEWAY: All right. We're going to take a 15-minute recess and we're going to resume at a quarter til 11:00.

(Court was in recess from 10:33 a.m. to 10:48 a.m.)

JUDGE RIDGEWAY: All right. Further evidence for the Plaintiffs?

MR. SPEAS: Yeah. Plaintiffs would call Albert Kirby to the stand.

WHEREUPON, ALBERT D. KIRBY, JR., was called as a witness, having been first duly sworn, and testified as follows:

JUDGE RIDGEWAY: Mr. Speas.

DIRECT EXAMINATION

BY MR. SPEAS:

Q. Would you state your name for the record please.

A. Albert D. Kirby, Jr.

Q. Mr. Kirby, would you describe for the Court a little bit of your background; where you grew up, where you went to school, that kind of thing.

A. Certainly. I was born and raised in – or born and reared in Clinton, North Carolina; Sampson County. I graduated from Clinton High School in 1976, attended Wake Forest University on a football scholarship. Played football back in the days when Wake used to lose a whole lot more games than – than they win now. I graduated from Wake Forest in 1980 and attended Campbell Law School subsequently after graduating from Wake. I graduated [78] from Campbell University School of Law, the one that was over in Kivett Hall in Buies Creek and not this nice place here.

After getting out of law school, I started in the DA's Office in Cumberland County and left the DA's Office. And after meeting so many wonderful people such as Justice Timmons-Goodson and John Dickson, Ed Grannis, a great number of great individuals; Orlando Hudson and so forth.

And I left Cumberland County and went to Pitt County and taught at East Carolina as an adjunct first and then as a – ultimately as a full professor. I was also in the DA's Office in Pitt County. After completing my – my tour of duty, so to speak, I moved back home to Clinton in 1990 and opened my own practice there and have been there ever since.

Q. So you've been practicing in Clinton for over 20 years now.

A. Yes, sir.

Q. And I believe you've been president of the local Bar.

A. I was; several years. I would like to tell the story that if you miss a Bar meeting down in – in Clinton, you'll become president. I made the mistake of not going. They couldn't get anybody to miss a meeting [79] for several years. It seemed like it went on for about six years or so, the local Bar in Sampson County.

Q. Mr. Kirby, do you have political experience to elected office?

A. Yes, sir. I have – I'm presently serving in District 5 as county commissioner, was elected in 2010.

Q. Okay. And by virtue of your years in Sampson County and your work and experience in Sampson County, have you become familiar with the voting patterns in Sampson County?

A. Yes, sir, I have. I'm very familiar with them.

Q. Can you tell me how you've acquired that experience?

A. Well, when I had moved back to Clinton in the '90s, I – I was already – always politically curious about the way things worked. And I was – I was engaged in the community. I was active in – in helping several campaigns, helping out and observing; one being that of – it was then Commissioner Larry Bell. He ultimately became a member of – of the State House. He lived right next door to me. And – and the other – other matters, I was just always engaged in campaigns and – and observing and...

Q. Okay. And did you – tell me a little bit about your campaign. Did you have volunteers who worked [80] for you?

A. Absolutely.When I decided to run – in fact, my campaign ended up being a majority of – of white and

many Republicans. I'm a registered Democrat; but in my campaign, most of the individuals who helped out in my campaign were white Republicans. And we – we – we ran, I thought, against an incumbent and that we defeated by a 3 to 1 margin in the primary. We had no – no general election opposition in that particular district at that time, and...

Q. Did the Sampson County Commissioners recently redistrict?

A. They did – we did.

Q. Can you tell the Court a little bit about that redistricting and your position in regard to that?

A. Absolutely. District 5 as I – as I remember was – it was a – it was one of two what they call African American districts. There were two primarily Republican districts, and then – that being District 1 and 2. And, of course, District 3 was – it was a swing district. That was the way it was set up to be.

District 5, the way the political –

Q. Is that your district?

A. My district being District 5. The way it was set up and – and when I ran, there were probably about [81] 45 percent – or 45, 48 percent African Americans. And – and I won by – like I said, there was no general election, but I did win the primary by a 3-to-1 margin. I felt like I had a great deal of African – of Caucasian support. Yet whenever the redistrict plans were drawn, there were African Americans taken from District 3, that swing district, and placed in District 5.

Q. And did you oppose this redistricting?

A. I did. I voted against it.

Q. Can you tell us why?

A. For the – for the reasons that – for the reason that many of the gentlemen who – who testified earlier today, I did not think it was necessary. It was not needed. There was no need to take the African American votes from the swing district to put them into District 5. It was pretty – pretty easy for an African American to win in District 5, and so there was no – it was unnecessary, once again.

Q. Okay. Do you know who did that redistricting plan for the Sampson County Commissioners?

A. Yes. I think it was a Mr. Morgan, if I'm not mistaken, in the law firm of – the name escapes me, but the gentleman sitting at the end. He came to our – one of our meetings.

Q. The Ogletree law firm?

[82] A. Yeah. The Ogletree law firm.

MR. FARR: Mr. Kirby, I'm Tom Farr.

THE WITNESS: That's right, Mr. Farr.

MR. FARR: Good to see you.

THE WITNESS: Let me apologize for forgetting you.

MR. FARR: No, sir. No apology needed.

THE WITNESS: Good to see you again.

A. Yeah. His law firm along with, I think, Mr. Morgan was the individual who did the districts.

Q. Mr. Kirby, I want to talk a little bit about House District 21 now. House District 21 has been occupied for some time by Representative Larry Bell; is that correct?

A. That's correct.

Q. And do you know Representative Bell?

A. Very well, yes, sir.

Q. You have known him?

A. Yes, sir.

Q. And tell the Court a little bit about Representative Bell.

A. Well, Representative Bell is a native of Sampson County. He was a well-respected gentleman in – in our community. He went through the – the county school systems there in Cumberland – in – in – in [83] Sampson County. He was the superintendent; if I'm not mistaken, the first African American superintendent of the school systems. And at the time he was the superintendent, he was also a county commissioner. He has a great deal of – a great deal of respect among individuals in Sampson County, both white and black. And...

Q. And based on your experience, has Representative Bell received a – a lot of white votes over the years?

A. Yes, sir. Most certainly. And when he was in – even in his district – District 5 days when he was the county commissioner, the number of Caucasians that voted for him was tremendous. He had a great – great success in District 21. As I remember, he had as much as 66 – 60 or so percent of margins when he ran there in Sampson County, as best I remember.

Q. Mr. Kirby, I'm going to put on the screen now two maps of House District 21. The one on the left that is in Wayne, Sampson and Duplin Counties is House District 21 as enacted by the General Assembly in 2011. The one on the right is House District 21 as it existed before 2011 and from which Representative Bell was previously elected.

You will notice on that slide, Mr. Kirby, [84] that the black voting-age population was increased from the old version of 21 to the new version of 21 by several percentages increasing it over 50 percent. And you will notice that it's now in three counties instead of two.

My question to you, Mr. Kirby, is this: Based on your years in Sampson County and your experience in living there, was there any reason, any necessity for the Legislature to increase the black percentage in that district to give Representative Bell or any other African American candidate a shot at that seat?

A. Based on my experience, Mr. Speas, there would be no reason whatsoever – no plausible reason to increase the number of African American – African Americans in – in District 21 up to 51 percent.

This district mirrors what was mentioned by the two senators who spoke most – most eloquently before me. Representative Bell had done just fine; in fact, had won without any problem whatsoever in District 21 as it – as it existed before the – the black number of voters was increased to 51.9 percent. And I can think of no reason why you would want to do that.

MR. SPEAS: Okay. Thank you, Mr. Kirby.

JUDGE RIDGEWAY: Cross-examination Mr. Peters?

CROSS-EXAMINATION

[85] BY MR. PETERS:

Q. Mr. Kirby, you said you taught at ECU. What did you teach?

A. Criminal justice.

Q. And what did you study at Wake Forest?

A. History and philosophy.

Q. Okay. Now, Mr. Speas asked you some questions about House District 21 and the former version of that district and the current version of that district.

Do you know what the – what percentage of the former version of that district was white?

A. If I'm not mistaken, it was just under 44 percent. I could be wrong. It seemed like to me that the – the black population, as I remember, was somewhere in the mid-40s. And then the white population was somewhere in that same area, if not lower. And then – but...

MR. PETERS: One second.

(Pause.)

BY MR. PETERS:

Q. The county commissioners' races in Sampson County, are those partisan?

A. You mean, are they Democrat or –

Q. Do – do you run a political party or is it non-partisan races?

[86] A. It's partisan, sure.

MR. PETERS: I have no further questions.

JUDGE RIDGEWAY: Okay. Anything further, Mr. Speas?

MR. SPEAS: No. Thank you very much, Mr. Kirby.

JUDGE RIDGEWAY: Thank you, Mr. Kirby.

Further evidence for the Plaintiffs?

MR. SPEAS: The Plaintiffs call Larry Hall.

WHEREUPON, LARRY DWIGHT HALL, was called as a witness, having been first duly sworn, and testified as follows:

DIRECT EXAMINATION

BY MS. EARLS:

Q. Would you state your name for the record, please.

A. Larry Dwight Hall.

Q. And would you briefly tell the Court a little bit about your background, where you were born and raised.

A. Well, I am a resident of Durham. I was born in Durham. My father was in the military. So I immediately after birth went to Okinawa, spent about three years there, four years there; came back to North Carolina, [87] enrolled in Durham Public Schools and attended Durham Public Schools until graduation. And in Durham, then attended Johnson C. Smith University and North Carolina Central University; and then went to law school at the University of North Carolina.

Kind of in between there, after graduation from Johnson C. Smith, I was commissioned in the United States Marine Corps and spent several years in the Marine Corps. And then I went to the University of North Carolina Law School.

Q. And – and counting active and reserve, you have a total of 16 years in the Marine Corps; is that right?

A. That's correct.

Q. And your last rank was Major Lieutenant Colonel Select.

A. That's correct.

Q. You started practicing law after graduating from law school?

A. I started practicing approximately a year after – a year and a half after graduating law school. I had to go back on active duty for approximately a year and a half and then returned and began practicing law.

I practiced in Oxford, North Carolina, initially with Floyd McKissick, Sr., and then moved to [88] Durham after he was appointed a judge by then Governor Martin. I moved the practice to Durham and practiced with the law firm of Michaux & Michaux.

Q. Could you tell us how – how you first became involved in politics?

A. Well, interesting, little did I know I was involved in politics the whole time. But when I began practicing in Durham at Michaux & Michaux, I was privileged to have the opportunity to help Mickey Michaux, who then ran for the newly drawn district or Congressional district that ran from Durham to Charlotte. And, actually, I think he lost that contest to a Mr. Mel Watt, who actually still occupies that seat.

Q. And that was in around 1992?

A. Yes. Yeah.

Q. Can you tell us a little bit about your involvement in community organizations in Durham County?

A. Well, I was fortunate not only in working at Michaux & Michaux where both partners were heavily involved in the community and in the state Bar activities, but also we had several judges in Durham who always tried to reach out and get young lawyers involved in community organizations.

So I started out with one of the first organizations I joined and stayed with approximately 10 [89] years, later become – became chairman of Durham Companions, which was a mentorship program for youth to try to divert them from juvenile activities and -- and from court time and punishment. I also had the opportunity to work with an organization called Young Marines, and it's a – sort of a spinoff from the Marine Corps, but not necessarily. It – I was a member of the Marine Corps League, which helps Marines transitioning from active duty back to civilian life to get employment and get resources, and this was one of the community organizations we supported to help teach them leadership and character and other traits as part of the Marine Corps creed. So I had that opportunity to do that and continued that to this day.

I was chairman of the Durham Business & Professional Chain and – which was an organization that helps small business and small business development in Durham, and also had the opportunity to be executive secretary for the – the Durham Committee on the Affairs of Black People as really an administrative role helping in the regulation of the different committees that met.

And as chairman of the Durham Business & Professional Chain, I also had a seat on the Chamber of Commerce Board of Directors and held that for years as well. So I tried to kind of get involved both in the [90] business development side as well as with youth and young people in particular to try to help them.

Q. And you talked a little bit about the Durham Committee, but I also want to ask you about any other local political organizations that you've been involved in.

A. Well, I've – I've worked with several of them. I was a member of what was called then the Durham Voters Alliance, which no longer exists; and also the People's Alliance, which is an organization that continues to exist now. And, there again, the Durham Committee has a political action organization, and I was also involved with the North Carolina Black Leadership Caucus that I chaired from 2000 to 2004. So it was a statewide organization, had members from Durham and great history with the leadership in Durham.

Q. So when did you first run for public office?

A. The first time I ran was actually 2002. The – I ran for a clerk of court, which was obviously a countywide position, and ended up not prevailing in that race, but learning a lot from the candidate side. I had known a lot or experienced a lot from working in campaigns and working in organizations from the Get Out the Vote or voter participation side. But that was my first chance to be a candidate. Didn't do as well as I [91] had wanted.

Q. And then you – your next campaign was more successful.

A. Yes. In 2006, District 29 then, the representative was Paul Miller. He decided not to run for another term. And prior to 2000, we had – and someone can correct me if I'm wrong, because I'm – I'm not real keen on the point – but prior to 2000, we had multimember districts. And then after 2000, we had single-member districts. And Paul Miller ran against then George Miller, who had been one of the representatives for, I think, 40 or 44 years in Durham. And he prevailed in the single-member district, which was District 29.

And Paul was an African American male, computer engineer. He won three terms, if I – if I've got it correct, through the 2006. So he won three terms. And then I won each term since then, so I won in the 2006 election. There were five candidates in the Democratic Primary, two African American females, myself, one African – one white male and one white female.

Q. I'm – I'm going to come back to that campaign, but I just want to ask you to identify, what's your current – what is your current leadership role in the North Carolina General Assembly?

[92] A. I'm the Democratic Leader in the State House of Representatives now. I was the Freshman Caucus Chair my first term, 2006-2007; and I was a Majority Whip back then. Unfortunately, I was the Minority Whip for two years, but I am the Democratic Leader in the House of Representatives.

Q. I – I – I wanted to ask you a couple of questions about the floor debate on the redistricting plans. Were you present on July 27th when the House considered – considered the Senate Redistricting Plan?

A. Yes, I was.

Q. If you look at the notebook in front of you, there's a – at the – there's a Tab D toward the back. And if you look at D2, on the – I – I want to ask you behind – I'll just say behind Tab 3 in that notebook is the – are the portions of the debates where you – where your own statements on the floor of the House regarding Durham County are made, and those are part of the record.

But I – I also want to ask you about the debate behind Tab 2, which – and it's the last – the transcript of several sets of proceedings, but it's the one

Wednesday, July 27th, 2011. And if you could turn to page 25. – And actually – it actually might be useful for you to start at page 24 – at 24. Have you found that?

[93] A. I think I have. It starts at the top line 1:

REPRESENTATIVE MOORE: Mr. Speaker.

Q. Right.

A. Yes.

Q. And if you – the first thing I will do is just make sure we're clear on the transcript. If you look at page – line 18 and – lines 18 and 19, Representative Lewis says: Thank you again for the question, Representative Martin. Is that just a typographical error where it says "Representative Moore"? Was it actually Representative Martin who was asking these questions, to your knowledge?

A. Yes. I – I – I think that based on my recollection, the statements attributed in here, the questions that indicate "Representative Moore" would have been questions that were from Representative Grier Martin. And so as Representative Lewis responds, he's responding to Representative Martin. You can see it in his comments that that's who he was talking to. My recollection is that's who was speaking and asking these questions.

Q. And you can take as – a minute if you want to review the – the exchange there that actually starts at – it started on – it started on page 24 and continues for several pages. This is actually an [94] exchange about Senate District 21 in Cumberland County. And –

(Mr. Speas and Ms. Earls confer.)

Q. In particular, let me draw your attention to page 27, line 10 where this would have been Representative Martin says: When you were looking at Cumberland County and drawing State House districts, did you find the presence of racially polarized voting?

And then the – the answer was: Representative Martin, again, to forestall the chance of a lawsuit, we chose simply to use the definition that a majority-minority district needs to be one in which is drawn to have a majority of minorities in there. We feel that this is in compliance with all state and federal law.

And then continuing on to page 28 and actually to the top – right – continuing on page 28, the question, again, is about line 4 of page 28: What I would like to know is, did you look to see if there were racially polarized voting in Cumberland County, and if so, what did you find? And the answer was: Representative Martin, I do not recall the specific findings in regards to Cumberland County.

Is – is that in a – those answers about finding racially polarized voting, do you recall that [95] exchange?

A. Yes; in particular, that line of questioning and responses given by Representative Lewis. One of the things we continued to ask: Was there a reason for these districts being drawn the way they were being drawn and was it meant to address some type of racial pattern that was shown in the voting, or what was the basis for continuing to draw these districts the way they were drawn?

And the response we – we continued to get – and Representative Martin was one of the members of the Democratic Caucus who was allowed time to question

the plan and put forward proposals or amendments. And the question we continued to get was – or the answer to the question continued not to be that they had found any racially polarized voting or they had any statistics or figures that showed that or were interpreted to mean that, but just that they wanted to make any district that they decided to be minority to be majority-minority –

MR. FARR: I object –

A. – voters.

MR. FARR: – and move to strike that testimony, because that's not what the transcript says.

JUDGE RIDGEWAY: All right. Sustained on the best evidence rule. The document will speak for[96] itself. If it –

MS. EARLS: Well, so I do have another question.

JUDGE RIDGEWAY: Go ahead.

BY MS. EARLS:

Q. So my question is: Is – is the exchange that I pointed out in this transcript consistent with your recollection of the position taken by the proponents on the majority black districts generally in those plans?

A. Yes.

Q. So let me turn, then, to voting patterns in Durham County. You – you talked a little bit earlier about your involvement in Durham County politics. Are you familiar with the voting patterns of white and black voters in Durham County?

A. Yes.

Q. And can you describe a little bit about the work that you've done in campaigns that would – would

familiar – that would cause you to be familiar with them?

A. Well, again, I was a member of several of the groups in Durham: One, People's Alliance, Durham Voters Alliance and the Durham Committee. And something that developed to be consistent in Durham was these organizations would represent in particular certain [97] aspects of life or certain issues, and the organizations would endorse whenever we would have campaigns.

And so there would be interviews and questionnaires given to candidates and they would give their opinions and information on issues, and then certain precincts within the county would be areas where these organizations would have some influence as far as pole workers and making endorsements and so forth.

So I was a member of three of them, was on the coordinating committee for one, was the executive secretary for another, and just a member of a third. And then there are several others: The Friends of Durham, which is a more conservative business-oriented group and, of course, Police Benevolent Association, which I also did interviews about crime issues and some other organizations.

Q. And what can you tell us about the racial composition of these various organizations?

A. Interestingly enough, every one of the organizations was multiracial in its composition of membership and even in leadership as well. And even if you look at all of them today, that I can recall and the last time I interviewed – and, again, I've interviewed every other year the last six years and had been a member of several of them at the same time – that they have

[98] multicultural makeup, both membership and leadership.

And then the issues they deal with will be issues of health, quality of life, transportation. So the issues are not black and white on their face. The issues are issues of quality of life or the population of the neighborhoods and the best interests of the community.

Q. And can you give do you have an example – can you give us an example of an issue that did not break down along racial lines in Durham County?

A. Well, I – I guess we have a couple of issues; but one in particular, we – we passed legislation to allow us to have a referendum on a food tax in Durham. And a lot of people, obviously, would say a food tax would hit certain areas of the community harder than others, and the benefits of that tax would be applied in an unequal manner.

It was interesting that in that instance, the Durham Committee ended up in an alliance with the Americans for Prosperity in opposition to that, which is a state group that was functioning at the local level. And I think the State Restaurant Association in opposition to it and some of the other organizations as well as elected city council members were in favor of – of the referendum. And the referendum failed.

[99] So it barely passed the General Assembly to allow it to go forward, and the legislative delegation all supported the right to have a referendum; but it failed because the community decided they did not want to have that food tax.

Q. So – so then specifically talking about candidates that run in Durham County, to what extent do white voters support black candidates in Durham?

A. Well, I think it's, again, important to understand in Durham-- and I guess it's similar around the state – that issues really dominate to a large extent who gets elected and what is your position on the issue after you've been examined by these organizations that endorse and – and after that work to help you get elected.

Whether you're black or white – certainly, if you're an African American candidate in Durham, we've got a long-serving mayor with plenty of other folks who have won in Durham, and you have to have both white and black voters. Many folks call it coalitions or whatever, but you work across race lines and income lines and every other line you want to think of because issues affect people up and down the scale and spectrum.

Q. Can – do you know of – of African American [100] candidates who have been elected countywide in Durham?

A. Yes. We had many county commissioners. They all run at-large. And right now our county commission is a five-member board with three African Americans, and I think there's been an African American majority for probably 12 years on the county commission. The city – and if you're familiar with Durham and the city, the boundaries within Durham County, the – the city council has been majority African American even – even though there are a few small areas of the county that aren't within the city boundaries.

The District Attorney was elected countywide African American, African American female. The judges – several judges, four or five judges, who have been elected countywide African American and African American female. So we've – we've had school

board members as well, school board chair African American; and majority school board African American elected. So they've all gotten support from across the community to include white voters.

Q. Do you know when the first African American was elected to city council in Durham?

A. Now, you – you – you – you're going a little bit beyond my – my experience. But I – I do know we had an elementary school named after a man named Renter [101] Harris – Rencher Harris and – R.N. Harris. And I think 1952, 1953 was the first time an African American was elected to the city council in Durham, and he was the person. But I think he also served on the school board as well, so he was the first African American who was elected in – in Durham.

Q. And Representative Michaux, do you know when we was first elected to the General Assembly?

A. It wasn't quite before I was born, but it was I think in 1971, '72 when he – when he was elected. So he's – I think he's been there all told about 17-and-a-half terms; about 35, 36 years. Not – not as long as George Miller served, but...

Q. What about black candidates who run statewide; do they -- have they been successful in Durham County?

A. Durham is, I won't say unique, but very particular about statewide candidates that – that come there. And, again, they all go through the same process I talked about being interviewed and – and issues being responded to on questionnaires and live interviews, et cetera. And as far as I can tell, everybody except for the president – presidential candidates have come through. So statewide candidates have all been

interviewed and/or endorsed as a result of those interview questions.

[102] African American candidates have done well in Durham. And as far as I know, in recent memory, Linda Coleman running for Lieutenant Governor won. Ralph Campbell won in Durham. Even in the recent Democratic Senate Primary, the top vote-getter, I believe, was Ken Lewis, who did not win, but won in Durham County. So supporting African American candidates in Durham County happens frequently, whether it's statewide or local. And they get white votes all the time. It's no big deal.

Q. Let's talk about the elections for House District 29. Do you have a general idea of what the racial makeup of what the district was when you ran in 2006?

A. The voting-age population, I think, before redistricting would have been about 43 or 44 percent African American and approximately 48 percent – 47, 48, 49 – somewhere in there – white voting-age population in the district at that time.

Q. And who in – did you get endorsements when you ran in 2006?

A. In 2006, like I said, there were five candidates in – in that race, and I did get endorsements. And I tried to get every single endorsement I could get from an organization that I agreed with. So there was some endorsements I didn't [103] get.

I didn't get NRA and I didn't get a few like that. But I did get the People's Alliance, the Durham Committee, the PBA, the Friends of Durham, and UE-150, which was a labor endorsement in trying a labor case.

Q. And then PBA, can you – what is that?

A. That's the Police Benevolent Association, Triangle Chapter. And they do the same thing that I talked about the other folks do. They would have a questionnaire. They bring them in for interviews. They ask you the questions on crime and punishment and resources for police activities, et cetera.

Q. And so the groups that endorsed you included representative white – they were representative of white voters in Durham?

A. Yes. Well, and, again, it's hard to say white voters in Durham; although in District 29, the majority of our voting-age population and the majority of registered voters were white. But, still, the issues were what really dominated. So they represented the interests of white voters and black voters. It just so happened the majority of them in District 29 were white voters.

Q. And then what – do you remember what [104] percentage of the vote you won by in 2006?

A. 2006 was an interesting I think I got about 37 percent in the primary. We had a run-off, and I got about 56, 55 percent in the run-off. So out of the 5, the top 2 went to the run-off; and then I got 55 percent 56 percent.

Q. And you had no opposition in the general election?

A. Didn't have any opposition in the general election.

Q. And so to get that 55 percent of the vote in 2006 in the – in – did you have the support of white voters?

A. Yes, I did. And the People's Alliance is a predominantly white organization. But, again, they have minority members and minority members in leadership. And the neighborhoods they represent or the neighborhoods where they have the most influence in Durham are around Duke East Campus and – and that part of town.

But, yes, I got their endorsement. I got the Friends of Durham endorsement, which is primarily considered to be a business organization heavily – membership was – is – is heavily business owners, financial industry people as well as real estate industry people.

[105] Q. In 2008, you had – did you – you had opposition in the general election; is that correct?

A. Yes. Yes. Interesting race. I had a white – male and I can't even remember his name now, and that shows what happens when you lose. But he – he decided to run and started a campaign. It was after my first time of winning two years – in the two-year term. So in my second term, I guess he figured to run against me being that I was the newest person he was in my district or in the district I represented and he started out a campaign saying reelect him when, in fact, I was the incumbent. But it didn't work out in the end for him.

Q. What percentage of the vote did you get?

A. I – if – if I recall, it was right at 92 or 93 percent of the vote that I got.

Q. And that's the general election?

A. Right.

Q. And then you had no opposition in 2010; is that right?

A. No. No opposition in 2010.

Q. Then when the General Assembly was redrawing House District 29 following the 2010 Census data, was there any need to increase District 29, increase the black voting-age population to over 50 percent black in [106] order to make it possible for African American voters in Durham to elect their preferred candidate?

MR. FARR: Objection.

JUDGE RIDGEWAY: Overruled.

A. I – I looked at the history of District 29. I don't think there's any reason – you know, my preference would have been for District 29 to be untouched. I didn't see any reason for the composition of it to need to be changed and certainly not in order to elect an African American candidate.

And I want to stress again that after we went to single-member districts and we had to break down in District 29 of voters, it was 40 percent registered black voters and 55 percent registered white voters in District 29.

And with that mix of voters, Paul Miller won three terms. And then after he decided not to run in 2006, I won two terms – three terms before this redistricting happened.

So the – the record shows there was no need for it. We had different candidates who were African American who represented the district that the voting mix stayed primarily the same throughout that period. And, again, it came back to what were the issues, what was your interaction with the community, [107] what has your service been and how responsive have you been as a leader or a community member.

Q. Just for the record, Paul Miller is African American?

A. Paul Miller is African American, yes, ma'am.

Q. And, again, for the record, you're identified as African American?

A. Yes, ma'am.

Q. Okay. Let I want to ask you a little bit about House District 31, which I've put on the screen just to orient the – what the enacted district looks like and what the prior district looked like. Who represents House District 31?

A. Representative H.M. Mickey Michaux.

Q. And I believe you testified earlier that he served 17 terms?

A. 17 and a half.

Q. Thank you.

And given what you know about voting patterns in Durham, and the extent to which white – white voters are willing to support black candidates, did District 31 need to be increased from 47 percent black voting-age population to almost 52 percent black voting-age population?

MR. PETERS: Objection.

[108] MR. FARR: Objection.

JUDGE RIDGEWAY: Overruled.

A. Well, I'll say this: I – I don't think that, once again, there was a need to redraw that district and – and – and increase the number of African Americans in that district. He was a known quantity as far as what he has done in response to community needs and

community issues. He had a person run against him – I think Mickey has a challenge every two or three cycles on average. So he has been challenged throughout and has campaigned and responded, again, to community groups and organizations. Not only do they get to look at his history of service, but they've looked at what he has done in the campaigns at hand.

And so there was no need to add additional voters. The folks he was representing, there was sufficient numbers of them from all communities; and they continued to elect him, continued to examine him, examine his service and continued to elect him.

Q. But apart from his strength as a candidate, you know, would – do voters – do African American voters in Durham sufficiently have the opportunity to participate in politics, be engaged, form coalitions with white voters, can those voters elect their candidate of choice, whoever it is?

[109] MR. FARR: Objection.

A. I would say, yes, the African American –

JUDGE RIDGEWAY: Hold on just a second. The objection is overruled.

Go ahead. Thank you.

A. The African American community, once again, in Durham has a – a strong history and networking history from that standpoint getting voters registered and participating at the block captain level, which is, again, below the precinct level for folks who do that kind of work. And because of that and because of the history of participation on city council and the county commission, African Americans as a whole in Durham have several organizations they use to participate and ensure candidates reflect their issues. And African

American candidates compete well and get that support, and they would be able to elect an African American based on those numbers and how that district is drawn.

As long as the African American, once again, represented community values and interests, they – you would not be able to put someone down there who put – no one would be able to win and be against the issues that are important to the African American community in that – in that old district, and absolutely not in the new district.

[110] Q. And – and then I also want to ask you about Senate District 20, which, again, I put on the screen just to show the enacted – as it's been enacted and what the prior district looked like. Are you familiar with the past elections for Senate District 20 in Durham?

A. Yes. The – Senator Jeanne Lucas for, I think, seven or eight terms was the senator who represented that district. And then it was Representative McKissick filled out her term and then ran twice, once under the old district and then under this new district.

Q. And both of them are African American?

A. Both of them are African American. Jeanne Lucas was the first African American female elected to the State Senate in North Carolina.

Q. And to your knowledge, did they both have support from white voters in Durham?

A. Yes. Both of them had support. Again, when you look at the quality of – of the candidate, Senator Lucas had been a public education employee and manager, supervisor and instructor and had a long history in the public school system in Durham before she came to the

Legislature. And Senator McKissick, likewise, was the former city councilman and had a history in Durham as well.

Q. Was there any need to increase Senate District [111] 20 from 45 black percent VAP to 51 percent VAP?

A. I don't think so. I mean, again, it's another one of those cases where it's clear we had an African American candidate there, went through these same processes I had talked about, got – continued to get reelected, did well in the Legislature and did well representing Durham.

And the same thing has happened since Senator McKissick became the senator from that district, and there's been no indication that African Americans would not be able to prevail in that district. Even if Senator McKissick was not the candidate again, that someone who came with the same level of qualification or commitment to the community and demonstrated that, that they would get the support of the black community and the black community could elect a senator out of Senate District 20.

MS. EARLS: I have no further questions.

JUDGE RIDGEWAY: Cross-examination?

CROSS-EXAMINATION

BY MR. PETERS:

Q. Representative Hall, I'm Alec Peters from the Attorney General's Office. Just a few questions.

For the record, you're a Democrat; is that correct?

[112] A. Absolutely.

Q. Okay. And you've talked this morning about a number of districts; your own District 29 and District

31 and District 20. Are you aware – well, let me start with – with your District 29. As that district existed prior to this latest round of redistricting when you were elected in 2006, 2008 and 2010, that district had over 60 percent Democratic voters, didn't it?

A. Yes.

Q. Okay. And the majority of those were black, weren't they?

A. Not the majority of them.

Q. The majority of registered voters – of Democratic voters in the district?

A. I think the majority of the registered voters in the district were white.

Q. And what are you basing that recollection on?

A. That's – that's my recollection.

Q. That's just your memory.

A. (Witness moves head up and down.)

Q. Okay. What about District 31; that also was over 60 percent Democratic. Is that correct?

A. I think it was.

Q. And do you recall about 70 percent of those Democrats were black?

A. That's – I'm not sure of the –

Q. Okay.

A. – number of – of Democratic black percentage on that.

Q. Okay.

A. And I'm not sure if you're talking about voting-age population or registered voters.

Q. I believe you said you did not have any opposition in 2010 –

A. That's correct.

Q. – is that correct?

But that in 2008, you had someone who ran on a "reelect me" campaign?

A. Yes, sir.

Q. And was his name Justin Lallinger or Lallinger?

A. I think you're correct, Justin Lallinger.

Q. And he was a Libertarian?

A. Yes, sir.

Q. He ran as a Libertarian, didn't he?

A. Yes, sir. That's how he got to the general election.

Q. And would you agree that there is some advantage to running as an incumbent in terms of name recognition and a track record?

A. I think it depends on what you do with your [114] time being in an elected office. If you've been interactive with the community and organizations that are involved and worked on the issues so that people know your stance, et cetera, and they agree with that and think that's in their best interest, it can be of benefit.

By the same token, if you're in office and you don't represent their needs and interests, et cetera, I think it's a hindrance.

Q. Well, you made the comment earlier that after all of his terms in the House, Representative Michaux,

I think you said, was a known quantity and people knew who he was.

A. Yes.

Q. All right.

MR. PETERS: I think that's all I have. Thank you.

MR. FARR: Your Honor, may I ask a few questions?

JUDGE RIDGEWAY: Yes, sir, Mr. Farr.

MR. FARR: Thank you.

CROSS-EXAMINATION

BY MR. FARR:

Q. Representative Hall, it's a pleasure to meet you. My name is Tom Farr, and I thank you for your [115] service to our state and to our country.

A. Pleasure to meet you again. You probably don't remember me, but –

Q. No, no. I – I remember you.

A. – the last – the last redistricting. Okay.

Q. I wanted to ask you a couple of questions.

Is it does it sound about right that the Legislature came in to enact plans around July 25th of 2011?

A. Right.

Q. Okay. And do you recall that Senator Rucho and Representative Lewis released something called "Proposed VRA Districts"?

A. Yes.

Q. And that happened in the middle of June; does that sound about right?

A. That sounds about right.

Q. Okay. And is it correct that the Legislative Black Caucus did not submit any plans for consideration until the Legislature convened on July 25th?

A. The plan that was submitted to – to my knowledge was worked on and discussed, but not officially submitted again, as you say, I think until the 25th when the actual plan itself was put forward.

Q. So the first time it became public was around [116] July 25th.

A. I'm not sure if that's the first time it became public, but I believe that was the first time it was officially submitted for consideration or debate.

Q. Do you know when it was provided or if it was provided to Senator Rucho or Senator Lewis before July 25th?

A. No, I do not.

Q. Okay. And were you familiar with a plan that was proposed by a group called AFRAM which is affiliated with the Southern Coalition for Social Justice?

A. No, I'm not.

Q. You're not familiar with that plan?

A. No, sir.

Q. Okay. But you were aware of the intent of the chairs as far as VRA districts from the middle of June of 2011?

A. I was aware that they had published the plan. And, also, as – as you might know, the Legislature is the home of all rumors and negotiations and that other plans might be coming forward and other work

might be done. And as far as I understood, discussions would – would continue.

Q. All right. And if I recall from your testimony that besides serving our country in the Marines that you [117] also are a lawyer?

A. Yes, sir.

Q. And are you familiar with expert testimony?

A. Yes, sir.

Q. Do you know what that is?

A. Yes, sir.

Q. All right. So between the time that – that you were – that you or others were aware of the VRA Districts through July 25th, did you personally provide the Legislature with any expert reports on the issue of racial polarization?

A. No, I did not.

Q. Did you provide them any reports on the issue of racial polarization and whether it existed in Durham?

A. I did not.

Q. Do you know whether the Legislative Black Caucus ever provided expert reports on whether racially polarized voting was present either in Durham or in North Carolina?

A. I'm – I'm not familiar with a report being generated titled "Racial Polarization."

Q. Okay. And are you – are you aware of whether or not the – the Democratic leadership ever provided the General Assembly with a report on whether racial polarization existed in Durham or in North Carolina?

[118] A. No, I'm not aware.

Q. Okay. So as far as you know, neither the Legislative Black Caucus nor the Democratic leadership submitted any expert testimony indicating that racially polarized voting had disappeared in any area of North Carolina?

A. Well, I don't know that you would call it "racially polarized voting disappeared." Now, I'm sure the information was submitted on the districts and what the current makeup of the districts and obviously the – the results of the last election in December. So that information was available and pretty widely dispersed –

Q. Well, let me –

A. – among all.

Q. I'm sorry, sir. Are you finished?

A. Yes, sir.

Q. I'm sorry. Let me try to ask the question in a better way. I – I apologize for my poor question.

Did the Legislative Black Caucus or the Democratic leaders from the time of the public hearing process started through the time the plans were enacted, did they ever submit any reports whatsoever offering expert opinions on racially polarized voting in any area of the State of North Carolina?

A. As you characterize the – the racially [119] polarized voting, as – as I said, as far as I understand, information was submitted on the percentages of voting by different races in all the districts in North Carolina and was pretty well disseminated, not just by the Black Caucus or Democratic leadership, but by the legislative staff as well.

So the information on what the breakdown was and what the performance was in virtually every district and even precinct, down to the precinct level, was available and I think everyone had it.

Q. I'm – I'm sorry. I – I must not have asked my question the right way.

My –my question is: Are you aware of any expert testimony given or produced or submitted by the Legislative Black Caucus or the Democratic leaders at any time during the public hearing process or during the legislative debates on the issue of racially polarized voting?

MS. EARLS: Objection, Your Honor. It's been asked and answered.

JUDGE RIDGEWAY: Overruled.

A. Again, I know that – and now that you brought forward public hearings as well, I know that there were several experts who testified at public hearings about differences in racial voting patterns throughout the [120] state. I'm not sure of the designation, whether you would call them actually Democratic experts, Black Caucus experts, academic experts; but I'm aware several of them did testify at public hearings, and I attended some of them.

Q. And do you think it would be reasonable for the General Assembly to consider those expert reports in making its decision on how to create these districts?

A. I think they said that they would take the information received in public hearings and – and review it. I'm not sure how they used it.

Q. Okay. I wanted to ask you a question about the City of Durham. Do you know what the racial breakdown is of the City of Durham?

A. No, I do not.

Q. Okay. And I have a question I wanted to ask you about your county commissioner races. What – what years did those take place?

A. They're on a four-year basis, and last year was the last election, so...

Q. So they're during the general election?

A. Yes.

MR. FARR: Okay. Representative Hall, thank you very much. I have no further questions.

THE WITNESS: Thank you. Good seeing you [121] again.

MR. FARR: Good seeing you. I – I hope to see you under more pleasant circumstances.

JUDGE RIDGEWAY: Ms. Earls, further re – redirect, ma'am?

MS. EARLS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MS. EARLS:

Q. Representative Hall, did any African American member of the General Assembly vote in support of the Senate, House, or Congressional redistricting plans?

A. Not to my knowledge, none supported.

Q. And did other African American members of the General Assembly speak on the floor of the House opposing the plans?

A. Several members did speak.I – I know that I spoke. And if my recollection serves me, Representative Lewis – Lucas spoke. Representative Adams, Representative Michaux, probably several others; but

a lot of folks spoke in opposition to the plan that was created and in support of other plans that – and amendments that were asked to be made.

MR. SPEAS: Thank you.

JUDGE RIDGEWAY: Anything further?

MR. FARR: No, sir.

[122] MR. PETERS: No.

JUDGE RIDGEWAY: Thank you, sir. You may step down.

THE WITNESS: Okay. Thank you, Your Honor.

JUDGE RIDGEWAY: Further evidence for the Plaintiffs?

MR. STEIN: Walter Rogers. Come around, please.

WHEREUPON, WALTER ROGERS, was called as a witness, having been first duly sworn, and testified as follows:

DIRECT EXAMINATION

BY MR. STEIN:

Q. Mr. Rogers, for the record, please state your full name and where you live.

A. Walter Rogers, Sr.; Laurinburg, North Carolina.

Q. Tell us a little bit about your background; where you grew up, where you went to school, and what kind of work you've done over the years.

A. I was born in Bladen County, moved to Scotland County in 1953. I have 16 years of formal education. I also have extended studies in management and administration from UNC-Chapel Hill, Pembroke

State and Fayetteville State. I'm also a graduate of the North Carolina Institute of Political Leadership.

[123] Q. Mr. – Mr. Rogers, have you been active over the years in politics in your area of this state and in the state?

A. Yes, I have. I think about the ninth or tenth grade, I decided that I wanted to be a county commissioner; so I began attending some of the meetings. And over the years, I have gone from attending county commissioners – and thinking about attending county commissioner meetings to help get other people elected in government.

I have worked on numerous campaigns. I as the chairman of the North Carolina Black Leadership Caucus, it has been my job to travel the state and share ideas and receive ideas as to what might be done to help low-level people and people of color.

But even before that, I was the – a – living in the 8th Congressional District. I held every office in the 8th Congressional District Black Caucus Leadership – 8th Congressional District Black Leadership Caucus, except chair. And I chose not to hold that because I was able to move around more freely. Prior to that, I helped to form the only black political organization in Scotland County, which exists today.

Q. And are you – are you right now the president of the North Carolina Black Leadership Caucus?

[124] A. I will be for at least another two months.

Q. And you've done that four years?

A. I have done that four years.

Q. Tell us a little bit about your activity in in Scotland and – and also in any of the surrounding counties where you've been active.

A. As the –

MR. STEIN: And – and could you put up the District 48.

A. Well, from a county's perspective, we have been able to elect a majority board of county commissioners.

Q. And you're talking about Scotland County.

A. For Scotland County – excuse me – for Scotland County.

Q. Yep.

A. We've also been able to do the same thing for the board of education. We've been able to do that for the City of Laurinburg, which is the county seat for Scotland County. We have been able to be successful in getting our first African American District Court Judge for Scotland and Hoke Counties. We have been very successful in having African Americans that had the right mindset elected to public office from a district perspective.

I'm also familiar with Hoke County. Hoke [125] County just had a young lady that was the clerk of court that was African American to go out of that position.

The sheriff of Hoke County, along with Scotland and Richmond Counties, the sheriffs are African Americans. The –

Q. Are you saying the sheriff in both counties?

A. All three: Richmond, Scotland and Hoke Counties. Also, the register of deeds for Hoke County is African American.

Q. Now, are any of those three counties majority African American?

A. No.

Q. So, for instance, the sheriffs in all three counties were elected with the participation of and the votes of white voters as well as African American voters?

A. That is correct. That is – that is absolutely right.

Q. So – and what about House District 48? We're looking at – displayed there is the district as it was enacted in 2011.

A. Urn-hum.

[126] Q. Could we look at it as – on the – on the right of the screen – I guess it's on the right of everybody's screen is the district as it was before the redistricting; is that correct?

A. That's correct.

Q. And on the left – left, of course, is the district as it – as it is now and as challenged in this case.

A. Correct.

Q. Before the redistricting, who was the representative of – from House District 48?

A. Representative Garland Pierce.

Q. And what's his race?

A. He's African American.

Q. And in his district, the – it shows there on the screen that the district was 45.56 percent black VAP in the district he was elected – being elected from then.

A. That's correct.

Q. And it's now up to 51.27.

A. Correct.

Q. Did in – in –your opinion and based on your experience in – in – in Hoke and – and Scotland County, was it necessary for the district – did the African American percentage – voting-age percentage in the District 48 need to be raised above 50 percent in order for the African American voters of that area to have a fair opportunity to elect candidates of choice?

MR. FARR: Objection.

[127] A. In my opinion, it –

JUDGE RIDGEWAY: Overruled. Go ahead, sir.

A. In my opinion, it was not. As – as a matter of fact, it probably complicated Representative Pierce. As a matter of fact, we've talked about it a number of times.

Q. In – in what sense are you talking about?

A. And I just asked him the effects of it on him as – as a representative. He said, Walter –

MR. PETERS: Objection to hearsay.

JUDGE RIDGEWAY: Sustained.

MR. FARR: Excuse me, Your Honor. I don't want to interrupt things. So on that question about whether they think it needed to be increased, could I just have a standing objection on that?

JUDGE RIDGEWAY: Yes, sir. I assume it's under Rule 702.

MR. FARR: Yes.

JUDGE RIDGEWAY: Competency of the expert opinion that's being offered.

MR. FARR: Yes, sir.

JUDGE RIDGEWAY: All right, sir. It's overruled on that basis.We're allowing it under Rule 701.

[128] MR. FARR: I won't – I won't say it again.

JUDGE RIDGEWAY: Yes, sir.

MR. STEIN: And, Your Honor, we rely on – on Rule 701.

JUDGE RIDGEWAY: Yes, sir. That's –

MR. STEIN: Right.

JUDGE RIDGEWAY: – the objection is overruled.

MR. STEIN: And there will be some briefing on that –

JUDGE RIDGEWAY: Yes, sir.

MR. STEIN: – when we're done.

BY MR. STEIN:

Q. Is – in terms of – as – as somebody active in the political process in working in House District 48, is the district as now configured, is that more or less difficult for somebody to get around the district?

A. It is more difficult. It is more difficult. It is – it – it actually makes it harder for you to have a better relationship because you've got a wider area and you got those little nooks and crannies that you've got to adjust for to make sure that you don't overlook anyone.

Q. Now, we've – we've talked about the – the [129] ability of the African American community to elect candidates of choice. Is the candidates of choice of the African American community in your area, is that always of African American candidates?

MR. FARR: Objection.

A. No.

Q. Could you give some examples?

A. Well, we have –

JUDGE RIDGEWAY: Hold on. Let me – let's – let's rule on the objection. The objection is overruled.

Go ahead, sir.

MR. STEIN: Sorry, Your Honor.

JUDGE RIDGEWAY: That's all right. If just for all witnesses, when there's an objection, if you would pause for a moment and let us –

THE WITNESS: Yes, sir. Excuse me.

JUDGE RIDGEWAY: – confer.

MR. STEIN: Your Honor, and I instructed him – him that, and it was – it was my fault to keep going.

THE WITNESS: Well, he did remind me. Sorry.

JUDGE RIDGEWAY: Thank you. Please continue.

[130] A. There are candidates who are not of African American descent who the African American community felt like were in their best interest. It was the issues that got them elected, and they were elected because the African American community felt like they were in their best interest.

Q. And do you have some examples of – of white candidates or any candidates?

A. Oh, sure. At one time, we elected two county commissioners who we felt like was in the best interest of the African American community. We have a clerk of court now in Scotland County who the African American community felt like was in their best interest and has done an excellent job in – in that position.

Q. So looking again at Hoke County, tell me what – what the – the composition of the school board and the county commission is.

A. I'm – I'm not sure about the school board. I know there are several. I believe there might be three or four. I know that the county commissioners have at least one African American female, and the chairman of the board is an African American male in Hoke County.

And we also have one Indian who is on the board who was a previous chair of the Hoke County Commissioners.

Q. Summing up in – in your view, is it – is it [131] necessary for there to be an increased percentage of – of African American voters in District 48 over the – the plan that was in effect at the time of redistricting in – in – in the way it was redistricted?

A. No, sir. I do not believe it was necessary.

Q. And were there any of the African American – predominantly African American political groups in the area who were supporting increasing the African American percentage in that district?

A. No. Were not.

MR. STEIN: Those are the questions.

JUDGE RIDGEWAY: Thank you.

Cross-examination?

MR. PETERS: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. PETERS:

Q. Mr. Rogers, I'm Alec Peters from the Attorney General's Office. And I'm sorry; I know this is probably something you said at the very outset, but I'm not sure I got it straight. Did you say you – did you say you currently live in Hoke County or Scotland County?

A. I currently live in Scotland County. I always refer to it as "Laurinburg" because very few people know where Laurel Hill is.

Q. That's fine. I just – I think I got myself [132] confused there for a minute.

And you've talked about Hoke County, Scotland County and Richmond County.

A. (Witness moves head up and down.)

Q. District 48 both under its previous version and its current version is also in Robeson County; is that correct?

A. Yes, sir.

Q. Okay. Are you aware do you know, Mr. Rogers, what the – in the – in the earlier version, the pre-redistricting version of 2000 of – of District 48, do you know what percentage of the population of that district was white?

A. Are you taking into con – what percentage was white?

Q. (Counsel moves head up and down.)

A. I don't have the – the exact number; but I know a lot of it was American Indians, which – which may have reduced it some.

Q. Okay. Do you know whether whites were a majority of the district or the majority of the population?

A. I would say yes.

Q. So then – excuse me a minute. I lost my page here.

[133] So it's not your understanding that whites were only about 30 percent of the population of the district?

A. No, it's not my understanding.

Q. Okay. Do you know what the voter registration of the district was, do you – do you know what percentage of the district was registered as Democrat as Democratic?

A. The percentage of people in the original district that were registered to vote?

Q. Registered as Democrats in the district, yes.

A. Under the old district or the new one?

Q. The old district.

A. On the old district, I believe – I'm not certain. I believe it was like 48 or 55 percent, but I'm not sure.

Q. Okay. So it's not your recollection that it's closer to 75 percent?

A. It is not my – I really don't remember on that.

Q. All right.

A. I'm sorry.

Q. And do you know what the percentage of registered Democrats in the district were black?

A. What percentage of the –

[134] Q. Of the registered Democrats in the district were black in the old district.

A. In the old district?

Q. Urn-hum.

A. 45 percent.

Q. Okay. Are you familiar – let me back up.

When redistricting plans were being considered in the General Assembly in 2011, were you aware of a group called AFRAM, the Alliance for Fair Redistricting and Minority Voter Rights, I believe.

A. Was I familiar with it?

Q. Yes, sir.

A. I was not.

Q. Okay.

MR. PETERS: That's all I've got.

MR. FARR: I have one question.

JUDGE RIDGEWAY: Yes, Mr. Farr.

CROSS-EXAMINATION

BY MR. FARR:

Q. Hello, Mr. Rogers.

A. How are you, sir?

Q. Nice seeing you this morning.

I wanted to ask you about these races that you talked about where you said that the black voters that supported the white candidate of choice.

[135] A. Yes, sir.

Q. You said there were two county commissioners that were elected.

A. Urn-hum.

Q. Were those partisan elections?

A. No.

Q. They were not?

A. (Witness moves head from side to side.)

Q. And who was the other candidate running against the white person who was elected?

A. It – what happened, the way the election was is that there were – the majority votes – two out of three of the majority gets the offices.

Q. Okay. Who was the person who lost?

A. I can tell you the person who won.

Q. Okay. Tell me who won.

A. Scoofer Jordan.

Q. Urn-hum.

A. And Clint Willis.

Q. And what was the race of the person who lost?

A. I believe it may – they may have been African American.

Q. Do you remember that person's name?

A. I believe it was Betty Goldston.

Q. All right. And were the two commissioners who [136] won, were they registered Democrats?

A. Yes.

Q. And there was a county clerk of court. Is that a partisan election?

A. No.

Q. And who was the person who won?

A. Walter Phillip McRae.

Q. And who – do you know who ran against Walter?

A. I do not remember.

Q. Do you recall the race of that person?

A. I believe they were white.

Q. Okay. Was Walter a registered Democrat?

A. Yes.

Q. The person who – the lady you think lost the county commissioner's race, was that person a Republican or Democrat?

A. A Democrat.

Q. Okay.

MR. FARR: That's all I have, Your Honor.

JUDGE RIDGEWAY: Redirect?

MR. STEIN: No, Your Honor.

JUDGE RIDGEWAY: All right. Thank you, sir. You may step down.

MS. RIGGS: Your Honor, Plaintiffs call Goldie Wells.

[137] WHEREUPON, GOLDIE FRINKS WELLS, was called as a witness, having been first duly sworn, and testified as follows:

DIRECT EXAMINATION

BY MS. RIGGS:

Q. Good morning, Ms. Wells. Can you introduce yourself to the court, please.

A. Good morning. My name is Goldie Frinks Wells. I live in Greensboro, North Carolina.

Q. Okay. Can you tell us a little bit about your background, where you grew up and where you went to school?

A. I grew up in Edenton, North Carolina, and went to first grade – I was at Edenton High School. We were in consolidated schools. I went the whole time to Edenton High School, graduated from Edenton High School. I went to Hampton Institute, which is now Hampton University; graduated there. I came to Raleigh, taught here for three years. Got married and moved to Greensboro. I've been there the rest of the time.

Q. Approximately when did you move to Greensboro?

A. In 1968. 1968.

Q. And what were you employed as in Greensboro?

A. As a teacher, an elementary teacher. I taught for about 17 years in elementary school. Then I went [138] back to school. I got a master's in elementary ed, a master's in educational administration. And then I moved out of the classroom, moved over to Statesville and worked there as an elementary supervisor. That's where I retired from the North Carolina system.

Q. Can you tell us a little bit about your political involvement in Greensboro?

A. Well, when I retired from – from the public schools in North Carolina, I went to Mississippi to be the president of a church boarding school. I came back home. And one Tuesday night, a young fellow came by the house and he said, Ms. Wells, the Winn-Dixie is moving and the – the – the Winn-Dixie had been in our neighborhood ever since I lived there. I live in Northeast Greensboro. I said, Oh, the store can't leave. We – we – we have to have a grocery store. He said, No, it leaving.

So I called then my – my councilwoman: Is this true, Claudia? Is this true? She said, Yes, it is. So that was Tuesday night. So then I said, We just got to do something about it. So I passed out flyers, told everybody about it.

So Friday night, everybody met up at the community center and that's how it got started. And we formed a group called the Concerned Citizens of Northeast [139] Greensboro. That was in December of '98.

Q. 1998?

A. Urn-hum.

Q. Can you tell us a little bit more about Northeast Greensboro?

A. Northeast Greensboro is – well, I could say that it – it's been neglected for a while. Greensboro – the racial divide is that the African Americans tend to live on the east side and we live in the northeast.

But Northeast Greensboro was – is – is – has been plagued with the White Street landfill. First we had the – the glass, EB (sic) Glass, I believe it is, landfill;

and that's where one of the chemical companies had been dumping their chemicals – in – in the White in the EH Glass.

So then the city bought land over in east – Northeast Greensboro, and now there are a thousand acres there that had been the landfill. So that area was kind of blighted. And the – the Concerned Citizens got involved in that blight.

Q. Have you ever been elected to political office in Greensboro?

A. Yes. I served for two terms on the city council: 2000 – 2005 to 2009.

[140] Q. Have you worked on any other political campaigns besides your own?

A. Oh, yes. Worked with Senator Katie Dorsett and Alma Adams – Representative Alma Adams.

Q. Senator Katie Dorsett, what district does she represent?

A. She represented District 28.

Q. And Representative Adams, you said?

A. She – well, it was 58 at that time. I think now – now we in 57.

Q. Okay.

A. Urn-hum.

Q. What have you done local – worked on local campaigns as well?

A. Oh, yes. All with Yvonne Johnson, who was the first African American to be elected to the – to – to mayor in Greensboro. I worked closely with her.

Q. When you've worked on political campaigns, what kind of activities have you participated in?

A. Well, we have – as a result of being involved with Concerned Citizens, we have a lot of we formed coalitions. People who when we started with the – the White Street Landfill – well, we still don't have the grocery story. But when we started with the issue of the White Street Landfill and wanted to close that, people [141] from all over the city got involved with us.

So we formed another group that's called the Citizens for Economic and Environmental Justice and we worked to – to get the landfill closed. I've also worked with – and then we – we found out that we needed people who were on the council who would be sensitive to our needs.

Q. Urn-hum.

A. So we – we – we formed another group called the Greensboro Voter Alliance, and that's a coalition of people coming from all over the city. But we were working to reelect – I mean to elect members to the council that we thought would work with us.

We – I – I also worked with another political group, the Simkins PAC, and that was started by George Simkins who was a Civil Rights activist, and I think he championed the cause – they went all the way to the Supreme Court – so that the African American physicians could practice at the hospital there in Greensboro.

So we – we formed that coalition, and folks came from all over to help us. And I just told them, I said, We will see you in November. And so when November came, we unseated those people who wanted to reopen the landfill and we have other representatives.

[142] Q. When you worked on political campaigns, did you have – for Senator Dorsett, for Representative Adams and on your own, did you have the chance to look at election returns for various elections?

A. Yes. Yes.

Q. Did you do any Get Out the Vote work?

A. Yes. We worked with the – worked with the precincts; and what we found is that folk were really interested in what the person was going to do, you know, for them.

Q. Okay.

A. Urn-hum.

Q. I'm going to put up on the screen a map of House District 57.

A. Urn-hum.

Q. Are you familiar with political campaigns in House District 57?

A. Urn-hum. Yes. That's –that's the one that Alma was first – Alma – oh, now 57, we have Pricey Harrison, yeah. Yes.

Q. And you used to live in House District 58.

A. Yeah, I used to live in 58. Yes. Urn-hum.

Q. Okay. Before you lived in House District 57, did you have any opportunities to work with Representative Harrison?

[143] A. Yes. Because she is concerned about the environment, she was very much involved with us when we were in the – in the White Street Landfill struggle. Urn-hum.

Q. Representative Harrison, what is her race?

A. She's white.

Q. Have you found that Representative Harrison is responsive to the needs of black voters in the district?

A. Quite responsive. She's quite responsive, yes. She listens. And I've been able to talk to her and give concerns, and she is quite responsive to our needs.

Q. Has she had interactions with grassroots organizing groups in the district?

A. Yes. She got – she – she was the door-knocker. She went through that neighborhood and because – because it was new to her and she didn't even have any oppo – opposition in the primary, she still went to every door she could and introduced herself. She was interested in learning the people and the people to know her.

Q. Did Representative Harrison have a challenger in the Democratic Primary in 2012?

A. No.

Q. Thank you.

I want to –now I'm going to put up a map [144] of Senate District 28, and this is a – a map that has both the old version of Senate District 28 and the new version of Senate District 28.

Are you familiar with political campaigns in Senate District 28?

A. Yes. That's Katie Dorsett and now we have representative – I mean, Senator Gladys Robinson.

Q. What was – what is the race of former Senator Katie Dorsett?

A. She's African American.

Q. And Senator Gladys Robinson?

A. African American.

Q. Do you remember when Senator Dorsett first was elected?

A. I don't know when she was first elected, but she won several terms.

Q. Do – did you have any opportunity to work on any of her campaigns?

A. Yes.

Q. Did you – do you remember if she ever had – how she faired against challengers?

A. Well, yes. She did very well. She was running against a white opponent and a black opponent – a white female and a black male – and she won. She won.

Q. Was – was that Senator Robinson, actually?

[145] A. What?

Q. Was that Senator Robinson, that race?

A. That was – she was running – oh, she was running against – let me get this straight now – Bruce – Bruce Davis was running with – with – oh, no. I'm sorry (snap). I'm sorry. That's right. That's right. It was Bruce was running – Bruce was running with – with Ms. Wade and with – with Robinson. Yeah.

Q. What if –

A. I got it now. I'm sorry.

Q. First, let's go back a little bit –

A. Urn-hum.

Q. – though, to talk about Senator Dorsett.

A. Okay.

Q. She served for some time?

A. Yes, she did.

Q. And did she ever have challengers for her seat?

A. Yes, she did

Q. And did she win successfully?

A. She won. She won, yes.

Q. Do you remember – in working on those campaigns, do you remember if Senator Dorsett won in precincts that were majority white?

A. Yes.

Q. Was it your impression that she had support [146] from the white – white voters in her district?

A. Oh, yes. It was – it was impossible to win – win those races without having white support, I believe.

Q. Why – why is that?

A. Because you need – because of the pre – the way it is, the – the black folk are not in the majority, so you have to have some white support.

Q. Do you know, did – did Senator Dorsett receive financial support from different parts of the community?

A. Yes.

Q. – What were –

A. Yes.

Q. – where did she receive financial support, do you know?

A. I don't know the specific groups, but I do know that she did receive – and in – in Greensboro, there are certain organizations that give, too, and they give – take you through screening and all that before they endorse you, and she did receive support.

Q. And, now, do you have any familiarity with Senator Robinson, the current serving senator, and her political campaigns?

A. Well, I – I don't know her. I haven't worked as closely with Senator Robinson. I did support her and I worked with the – with the PAC and the PAC endorsed [147] her.

Q. I – I want to ask you some more questions about the PAC. But, first, do you – that – the three-way race that you had mentioned, that was with Senator Robinson?

A. Yes.

Q. And who were the candidates involved in that election?

A. Trudy Wade, Bruce Davis and Senator Robinson.

Q. And what are the – what is the race of Trudy Wade?

A. Trudy Wade is white.

Q. And Bruce Davis?

A. Is black.

Q. And – and what was the result of that election?

A. She won. He only won a small pocket of the – of the votes and she prevailed.

Q. So you had mentioned the Simpson – the Simkins PAC. Can you tell me a little bit more about what the Simkins PAC does?

A. Well, the Simkins PAC interviews candidates from state level on down to – to municipal; call them in, ask them a set of questions. They're sensitive to finding candidates that will be sensitive to the cause of [148] African Americans to make sure that they're not – I guess you could use the word "prejudiced" – but make sure that they are going to be fair and that they're going to – to serve well. And they get – carry them through this grilling process and then endorse the ones that we feel are the best.

Q. How long have you been a member of the Simkins PAC?

A. For about six or seven years.

Q. Are you familiar with the work that they've done even before you were a member?

A. Oh, yes. It – it's like a political pillar in our – in our community in Greensboro, and it is recognized by all of the people who plan to run. They recognize the PAC.

Q. Did the Simkins PAC endorse Representative Pricey Harrison?

A. Yes.

Q. I want to talk now a little bit about the City of Greensboro and your – your political involvement there. Based on the campaigns that you've worked on in the City of Greensboro, have you noticed white support for African American candidates in the city?

A. Yes. A lot of support and – and, personally, they they were very responsive to me. But the [149]

support – I know that there's white support because our first mayor, Yvonne Johnson, ran at large. In fact, she's only been an at-large candidate and she's won. She served for 14 years before she became mayor, so she's always gotten support.

Q. Is – is the City of Greensboro majority black?

A. No. Just 37 percent black, according to the 2000 Census.

Q. Do you know what sort of groups endorsed Ms. Johnson in her race for mayor?

A. I know the Realtors Association. I know the PAC. I – I don't know all of the organizations –

Q. Urn-hum.

A. – but she was a favorite. I don't know.

Q. Was – is the Realtors Association a predominantly white organization?

A. Yes, it is.

Q. What about, have you noticed black support for white candidates in the city?

A. Oh, yes. In the last election when I was talking about we wanted to get the right people in, our present mayor is – is a white male.

Q. What's his name?

A. Robbie Perkins.

Q. Okay.

[150] A. And he was very supportive, helped us. In fact, when we started to fight the reopening of the landfill, the former mayor, who was white, Keith Holliday, asked me to – to pull folk together because things were going too fast and because he had an

interest in the city, did not want to see the White Street Landfill reopened. As a result in the – the CEEJ, we have representatives, people who are from every district in Greensboro.

Q. Is the CEEJ, is its membership predominantly African American or white?

A. It's mixed. We have mixed. We even have Montagnards working with us. We have all different ethnic groups that are a part. And I never looked at the percentage of, you know, white to black. I guess you would say maybe – maybe predominantly black, because it's in our – but – but we have strong support from the community.

Q. And – and your organizations that you're involved in – Concerned Citizens of Northeast Greensboro, the Citizens for Economic and Environmental Justice and the Greensboro Voter Alliance – have you supported white candidates?

A. Yes. Yes, we do. We've supported them.

Q. And why was that?

[151] A. Because of their stance, because of what they believe in and what we – their – their goals and objectives for the city. Mayor Perkins has been talking about us being one city, and that's what we've been working toward. Right now we have a – that old shopping center, we're working together and – and trying to get that done. We have lots of support from people.

Q. Ms. Wells, do you think that Senate District 28, did – did the black voting-age population in the district need to be increased from 47 percent to over 56 percent in order for black voters in the district to have a fair opportunity to elect candidates of their choosing?

A. No. No. Huh-uh. We were doing fine. We didn't – we didn't need that. It's about the candidate and what the candidate says. And – and what we did, we worked on, is to get folk out to vote. That's the –the hardest. Get them out, and then they will vote for the person that is the best choice.

This caused a lot of confusion because people didn't know where to go to vote. They got there and they – this was the wrong place. Somebody on one side of the street was voting one place and somebody -- it – it was – it was confusing.

MS. RIGGS:Thank you very much, Ms. Wells. No further questions.

[152] JUDGE RIDGEWAY: Cross-examination?

CROSS-EXAMINATION

BY MR. PETERS:

Q. Okay. Good afternoon, Ms. Wells.

A. Good afternoon.

Q. I'm Alec Peters from the Attorney General's Office. I know I keep saying that to all the people that have been sitting there. Just a few questions.

I – I think you mentioned Robbie Perkins is the current mayor of Greensboro.

A. Yes.

Q. And is he a Democrat or Republican?

A. He's a Republican.

Q. What about Keith Holliday?

A. He's a Democrat.

Q. Okay. Now, you have been talking some about Senate District 28. And, well, let me back up. Just for the record, are you a Democrat or a Republican?

A. I'm a Democrat.

Q. Okay. Senate District 28 we've been talking about some, and do you know what the – in the former version of Senate District 28, the one that was in effect for most of the 2000s up until 2000 – up until the last election cycle, do you know what percentage of the voters in that district were registered as Democrats?

[153] A. I really cannot tell you. I don't know.

Q. So would I be correct in assuming, then, that you also don't know what percentage of the registered Democrats in that district are black?

A. I – I – I don't – I'm – I don't want to say something that's statistically wrong because I don't really know.

Q. That's fine. Thank you.

And, again, that current – that previous version of the district, do you know what percentage of the voting-age population in that district was white?

A. What percent – what percentage of voting –

Q. Of the voting-age population –

A. – was –

Q. – in old Senate District 28 was white.

A. The old. Well, if 47 percent was black, I guess whatever that difference is.

Q. I'm sorry?

A. Wouldn't it be? If – if 47.20 percent says black voting age, is that – is that what that means, that – that VAP?

Q. Yes, ma'am.

A. So then I guess the difference between that would be the white ones that were registered to vote.

Q. Well, to your knowledge, are there voters in [154] that district who might have been Hispanics or Asian?

A. Oh. Oh, yeah. There would be some. Because, see, in – in the City of Greensboro, there are 50 – 55 percent white, 37 percent black. So, you know, you have all those other "others" in there, small percentages, yes.

Q. So with that in mind, do you know what the percentage of the district was white – or the voting-age population of the district was white?

A. No, I don't.

MR. PETERS: I believe that's all I have. Thank you.

THE WITNESS: Yes, sir.

MR. PETERS: No. I do have one other – I do have one other little area of questions.

BY MR. PETERS:

Q. Are you familiar or were you – when redistricting plans were being considered, were you familiar with a group called AFRAM?

A. Huh-uh.

Q. Or –

JUDGE HINTON: Is that yes or no, ma'am?

A. Oh, no.

JUDGE HINTON: Thank you.

A. I'm sorry. Just shaking my head. No.

[155] Q. Okay. Thank you.

And were you familiar with any plans that were being put forward by the Southern Coalition for Social Justice to the Legislature?

A. I wasn't aware of it.

Q. Okay.

A. No, I wasn't aware of it.

MR. PETERS: Thank you. That is all I have.

MR. FARR: No questions, Your Honor.

JUDGE RIDGEWAY: All right. Do you have anything further?

MS. RIGGS: Nothing further. Thank you.

JUDGE RIDGEWAY: All right. Thank you, ma'am. You may step down.

All right. We're going to take a one-hour-and-15-minute lunch recess, and so we'll resume at a quarter til 2:00.

All right, Bailiff.

(Court was in recess from 12:30 p.m. to 1:50 p.m.)

JUDGE RIDGEWAY: All right. Welcome back, ladies and gentlemen.

Further evidence for the Plaintiff?

MR. SPEAS: Yes, Your Honors. We would call Linda Garrou to the stand, please.

[156] WHEREUPON, LINDA GARROU, was called as a witness, having been first duly sworn, and testified as follows:

DIRECT EXAMINATION

BY MR. SPEAS:

Q. Would you state your name for the record, please.

A. Linda Garrou.

Q. And, Ms. Garrou, would you tell the Court a little bit about your background; where you grew up and those kinds of things, where you went to school.

A. Thank you. I'm Linda Garrou and I grew up in Georgia, and I had the good fortune of going to Chapel Hill to get – receive a master's degree in history. But I was really looking for a M-A-T-E, and I was very lucky I got an A in that course. I've been married for 47 years to – to John Garrou. I felt especially blessed.

We moved to Winston-Salem after he completed law school and he started work, and we've lived there ever since. We've been active in the community and I –my first career was as a teacher, and I've been very interested in teachers and children and the effect of the world on children and have been involved in my volunteer career through Juvenile Justice Council.

I worked for ten years with the Administrative Offices of the Courts in the Guardian Ad [157] Litem Program. And through that experience, I decided in 1996 when no one was going to run for the Senate from our district that I would give it a shot. I felt that I was called to give it a shot and so I did, and that was my entrance into politics.

Q. So you were elected to the Senate in 1996 from Forsyth County, and I believe you were elected seven times all together.

A. Yes, sir. But I was not elected in '96. I lost by 1 percent of the vote. It was a two-seat district, and I came in third. My prayer had been I would come in fourth and I would say the calling that I felt was indigestion or something. But so I felt an obligation to give it one more shot, and I ran in '98 and led the ticket at that point.

Q. And in '98 and 2000, that district was a two-member district?

A. Yes.

Q. And you were elected and Hamilton Horton was also elected?

A. That's correct. Yes, that's correct.

Q. Okay. And then we got a new redistricting plan beginning in the 2002 election. And, Senator Garrou, you were elected from that district in 2002, '4, '6, '8 and '10, correct?

[158] A. Yes. We had a district that was – that we drew in 2002 and it was appealed. And then a judge drew the district from which I was elected the next few years, so it was a – a – a redrawn district. But I was elected those next few years, yes.

Q. Senator, in front of you on the screen is a map on the right-hand side of Senate District 32. That is the district as it existed in the first decade of this millennium.

MR. SPEAS: And something has happened. We now have a case –

Q. Okay. Senator –

A. Is – is – I don't see District 20. Is that the district you're

Q. No. 32.

A. Oh, sorry. Excuse me. Yes.

Q. That is the district you were elected from in 2002, '4, '6, '8 and '10. It's called "benchmark."

A. Yes, that's correct. Sorry. I was just confused about the districts.

Q. The black voting-age population in that district is 42.52 percent, correct?

A. That's what this says, yes, sir.

Q. Now, you were elected from that district five times – different times. Can you tell the Court the [159] kinds of things you did to appeal to African American voters in the Forsyth County district?

A. One of my first really kind of a big – big case issue for me was I called on Governor Jim Hunt to call a special session for Reynolds Tobacco Company because the folks in Florida were trying to move some action that would require that Reynolds would – it was the – something, the bank and getting paid, bills.

And RJ Reynolds has made life so livable for so many people in Winston-Salem, particularly African Americans; and they've given them such opportunities. And I felt not only for Winston-Salem, Forsyth County, but for the State of North Carolina that that was so critical. But it affected so many African Americans in my – in my district.

I had the opportunity through chairing the Appropriations Committee and working on the Education Committee, worked with the – the bond issue to help the university system. And we have two universities

in Winston-Salem. We have the North Carolina School of the Arts and Winston-Salem State. And we did some focus growth planning for Winston-Salem State so they could increase the – the children that went to school there, increase their ability to stay in school and to grow and offer more courses.

[160] And I was particularly proud of the efforts that we made at Winston-Salem State. If you drive in Winston-Salem State now, I mean, it is so different from what it looked like when I first moved to Winston-Salem. There have been a number of issues that – that I've worked on that affected the African American community as far as jobs were concerned, because we know that's a real issue for – for everyone.

Q. And did you count yourself as the candidate of choice of the African American community in those years in Forsyth County?

MR. FARR: Objection.

JUDGE RIDGEWAY: Overruled.

Q. You may answer.

A. Well, actually, I went to a Democratic Party Convention committee meeting recently and a number of African Americans came up to me and told me I would always be considered –

MR. FARR: Objection.

MR. PETERS: Objection as to hearsay.

JUDGE RIDGEWAY: Overruled.

BY MR. SPEAS:

Q. Okay. During the – those years that you were running – running from that district, Senator Garrou,

did you have an African American opponent at any point?

[161] A. Yes, I did. When I ran in '98, there were three of us on the ballot, and we worked with the party folks to try to get probably an African American to run for that seat, and we could not get anyone. I had two people who ran against me in the primaries. I guess it was 2004 and 2010. I can't remember exactly.

Q. And do you recall the percentage of votes you got in those occasions when you did have an African American primary opponent?

A. I can't remember exactly, but it was over 70 percent.

Q. You won by significant margins?

A. Yes.

Q. Okay. Now, Senator Garrou, you did not run for the Senate in – this last time, did you?

A. No. I chose not to.

Q. Okay. And on the screen in front of you, on the other side of the screen, is Senate District 32 as it now exists. Do you recognize that as the present district, Senator?

A. Yes, I do. Although I had not seen this latest thing, this little arm sticking out on the right. I had not seen that part.

Q. Okay. Okay. Were you excluded from that district that had previously been your district?

[162] A. Yes, I was.

Q. And – and do you know why you were excluded from that district?

A. I can't remember the – the words exactly, but I was on the floor. The chair said that it was to offer an African American the opportunity to win the election in that district.

Q. Okay.Senator Garrou, there is a white notebook in front of you just to your left there. If you could put that in front of you and turn to Tab D4, which is very near the back of the document, Senator.Did you find D4?

A. Yes, I do.

Q. Okay.

A. Page 86, yes.

Q. Okay. And is that the July 25, 2011 Transcript of Proceedings in the State Senate?

MR. SPEAS: May I – may I approach the witness, Your Honor?

JUDGE RIDGEWAY: Yes.

BY MR. SPEAS:

Q. Let me – I'm sorry to be so confusing about where it is.

A. I'm not sure about the date, but...

Q. It's Tab 4. Yeah. And let me see. Well, let [163] me get the page myself.

A. Okay.

Q. It's page 91. And on page 91 beginning at page (sic) 19, Senator Rucho is speaking. And could you read that sentence beginning at line 19 into the record, please, Senator: We have, also...

A. Yeah. We have also removed the white incumbent from the district who had previously defeated

African American primary challenges, and we think this will provide the minority community within the district with a better opportunity to elect a candidate of their choice.

Q. Okay. Thank you.

And that was Senator Rucho speaking on the floor of the State Senate?

A. Yes.

Q. And, Senator, I want to show you –

MR. SPEAS: Your Honors, I've shared this with the other side, but this is another map. It's one we did not have on the screen, and if I may ask the witness a few questions about it.

JUDGE RIDGEWAY: Yes, sir.

MR. SPEAS: I have a copy for the Court, if I may approach. And the other side has the copy. If I may approach the witness.

JUDGE RIDGEWAY: If you have one extra, if [164] you'll give it to the clerk.

MR. SPEAS: Yes, I do have one extra.

BY MR. SPEAS:

Q. Senator Garrou, there is a set of documents in front of you that's marked as Exhibits 31A and 31B. Those are, I would represent to you, the VRA House and VRA District 32 as first introduced by Senator Rucho and the Rucho Senate District 32, which was the district as enacted by the General Assembly.

Can you point to the Court the precinct in which you live?

A. I live in Precinct 908, which is second from the left-hand margin. I think there's 131, and then 908 is my – my district – my precinct.

Q. It's roughly parallel on the left with the words "Forsyth"; is that correct?

A. That's correct, yes, sir.

Q. Okay. And that's the precinct in which you live?

A. Yes, sir.

Q. Okay. Now, Senator Garrou, the – there's a difference between Exhibit 31A and 31B, a couple of differences. 31A does not divide any precincts. 31B divides a lot of precincts.

MR. PETERS: Objection. Are these [165] statements or questions?

JUDGE RIDGEWAY: All right. Overruled.

MR. SPEAS: Okay.

Q. Is that correct, Senator?

A. I – yes. Yes, sir. I – I – I think I would say that's correct, yes.

Q. Do you know the reason those precincts were divided?

A. I really can't tell you. I mean, that was one of the things we talked about was trying to split as few precincts and districts as we possibly could when we that was part of the process, was my understanding.

Q. Okay. Okay. Senator Garrou, did you choose not to run for reelection because you had been moved out of your old district?

A. Yes, sir. I – I chose to run (sic) because I can count.

MR. SPEAS: Thank you, Senator. Those are all the questions I have.

JUDGE RIDGEWAY: Cross-examination?

MR. PETERS: We don't have any, Your Honor.

JUDGE RIDGEWAY: All right. Thank you, ma'am. You may step down.

THE WITNESS: Thank you.

[166] MR. SPEAS: Thank you, Senator.

THE WITNESS: Thank you.

JUDGE RIDGEWAY: Further evidence for the Plaintiff?

MS. EARLS: The Plaintiffs call Representative Mel Watt.

WHEREUPON, MELVIN L. WATT, was called as a witness, having been first duly sworn, and testified as follows:

DIRECT EXAMINATION

BY MS. EARLS:

Q. Would you state your name for the record, please.

A. My name is Melvin L. Watt.

Q. And you currently serve as a member of Congress from the 12th Congressional District of North Carolina.

A. I do.

Q. And you've been nominated by the President to be the Director of the Federal Housing Finance Agency, and that's a position that requires Senate confirmation.

A. That's correct, yes.

Q. Would you tell the Court a little bit about your background; where you were born and raised.

A. Yes. I was born in Mecklenburg County. I attended public segregated schools in Mecklenburg County. I attended the University of North Carolina at Chapel [167] Hill, '63 to '67; and then was at Yale Law School from '67 to '70 and graduated from Yale Law School in 1970.

And went to Washington, took the DC Bar planning to go back to graduate school in law and decided not to do it. So I left Washington before I got my DC Bar results and went through New York to the NAACP Legal Defense Fund for about a year and then came back to Charlotte to join the Chambers firm in 1971.

Q. And you practiced law with the Chambers firm from '71 until you were elected to Congress in 1992; is that correct?

A. That's correct, yes.

Q. And so you were there when the firm was litigating the Gingles case?

A. That's correct.

Q. Could you give the Court an overview – a brief overview of your political career when you first got involved in the politics?

A. I got a call one day from a guy name Harvey Gantt. He had been appointed to the Charlotte City Council. The African American community was split on who the appointment would go to. It was the city council that was going to make the appointment. And he was not affiliated with any of the three groups, but he got appointed to the city council. And he called me

and [168] asked me if I would manage his political campaign the first time he ran for the Charlotte City Council; and that was, I believe, in 1974. I have been either a campaign manager or a candidate in a political campaign every two years since 1974.

Q. And so in addition to the city council campaign, what other campaigns did you manage?

A. I managed his campaigns for city council in 1979. He called me and said he was going to run for Mayor of Charlotte. I told him he was out of his mind because the City of Charlotte was approximately 23, 25 percent African American and I didn't think he could win. And I asked him why he was planning to run, and he said he was – he thought he was the best qualified candidate to – to run for mayor.

He lost that election in the Democratic Primary in 1979 by 95 votes out of over 100,000 votes cast. In 1981, he ran for city council again and won at-large on the city council overwhelmingly, became the Mayor Pro Tern. In '83, he ran for mayor again and won the mayor's race; then subsequent mayors' races.

And then in 1990, he called me and said he was going to run against Jesse Helms for the United States Senate. And I told him he was out of his mind again. But if he was going to be there, I was going to [169] be his campaign manager. And – and so I managed that campaign in 1990 statewide; my first statewide campaign.

In 1991, they created the 12th Congressional District based on the 1990 Census. I called Harvey Gantt and said, I'm ready to manage your campaign for the United States House of Representatives. And he told me he was not going to run and asked me if I

would consider running, and so I've been in Congress ever since.

Q. And you've also served in the North Carolina Senate?

A. I did. But I did not run for the North Carolina Senate much like I think Representative – Senator Dan Blue described this morning. I was selected by the committee structured to replace Phil Berry, whose name remained on the ballot, although he had died right at the end of – of his campaign. I served one term in the North Carolina State Senate and then decided that it probably didn't make sense for me to do that with two boys at home growing up, so I got out.

Q. And can you tell us briefly what leadership positions you've held in Congress?

A. I have been on the Judiciary Committee and on the House Financial Services Committee the entire 21 years that I've been in Congress, and I have held either [170] ranking member or chairman positions on a number of subcommittees at various times on both of those committees.

When we were in the majority, of course, I would be a chair. When we were in the minority, I become a ranking member. I've been either chair or ranking member of the Immigration Subcommittee on the Judiciary, the Administrative Law Subcommittee on the Judiciary, the Constitution Subcommittee on the Judiciary and the Intellectual Property Subcommittee on the Judiciary, which I'm the ranking member of now.

On Financial Services, I've been the chair or ranking member of the Oversight Subcommittee. And during the Dodd-Frank period, I was the chair of the Domestic

Monetary Policy Subcommittee, which is the subcommittee that if anybody in the federal government has oversight jurisdiction over the Federal Reserve, it's that subcommittee. Yeah.

Q. And were you also chairman of the Congressional Black Caucus in 2005-2006?

A. I was the chair of the Congressional Black Caucus in 2005 and 2006. And it was during that period that the Voting Rights Act was reauthorized. Because of my position on the Judiciary Committee and because I was chair of the Congressional Black Caucus and had pretty [171] extensive background in voting rights because my district had been in litigation multiple times and had been changed during the 1990 cycle multiple times, I thought it would be good for me to be active in that. And so I formed a coalition with Chairman Sensenbrenner, who was the chair of the Ford Judiciary Committee. He had been involved in earlier authorizations of the Voting Rights Act, and we kind of made a deal that we would stand back to back and try to get the Voting Rights Act reauthorized. He would kind of fight off the people who wanted to make dramatic changes from the right and I would try to fight off the people who wanted to make dramatic changes from the left to make it cover more and more things. And we were successful in getting the Voting Rights Act reauthorized for 25 years.

Q. So coming back to Mecklenburg County, are you – are you familiar to the extent to which African American candidates have been elected to public office in Mecklenburg County?

A. Yes.

Q. And can you give me some examples of either – well, first of all, the City of Charlotte makes up about

what percentage roughly of the – of Mecklenburg County?

A. I'm not sure. But, you know, over the years, the city has annexed more and more and more of the [172] county. There are some towns – Huntersville, Cornelius, Davidson – that are not part of the city. But essentially most of that, except for the precinct where my mama lives where I grew up, have pretty much all been annexed into the city.

I – I was born beyond the airport between the airport and Catawba River, and they have not annexed – annexed anything beyond the airport; but there's only one – one precinct beyond the airport. My mother still lives in the county.

Q. So either citywide or countywide, do you have – can you give us some examples of – of African American candidates who have been elected?

A. Well, obviously, Harvey Gantt as mayor and – and as an at-large member of city council. The current mayor, Anthony Foxx, who's the President's nominee to become Transportation Secretary, is elected citywide.

Q. How many times has he been elected?

A. He's been elected twice, I think. Yeah.

A number of school board candidates have been elected countywide. I think the current chair of the – of the school board is African American and she was elected countywide. There are at-large members of the city council, David Howard and Patrick Cannon, who is the Mayor Pro Tern of the City of Charlotte who was [173] elected county – citywide, not countywide. But there's a long history of – of coalition building going back a number of years in – in the City of Charlotte and in Mecklenburg County.

Q. What about the – the – the county commission? Do they – are there at-large seats for the county commission?

A. There are at-large county commission seats. Let me see. I'm – I'm going to – I'm refreshing my recollection here. Trevor Fuller is an African American male who's elected countywide. Kim Ratliff, the vice chairperson of the county commission, is an African American female who was elected countywide, yes.

Q. And then I want to ask you about African American candidates who have been elected to State Senate and State House seats in Mecklenburg County that are not majority black districts. Have there been any examples of that?

A. I suspect there have been a number of examples. I guess the one that springs most readily to mind is Malcolm Graham, who I – I don't know the district numbers because I don't keep up with that. But he ran against an incumbent, Fountain Odom, and – and won and has been reelected and still serves a number of – has served a number of terms in the – in the State Senate. [174] And his district is – is certainly not majority or any – probably not even close to being majority African American.

Q. And what about in the House – in the House district seats that are not majority black?

A. Let me look at my numbers here and I'll maybe be able to answer.

Nick Mackey, who's African American, won 65 percent of the vote in a 27, almost 28 percent African American district. Rodney Moore won 72 percent of the vote in a district that's approximately 27, 28 percent

African American. Charlie Dannelly, who represents the district that I represented – that I was appointed to represent in – or – or the successor district, I guess you would say, got 73 percent of the vote in a 47 percent black district. And Malcolm Graham's district, who I just testified about, has approximately a 31 percent African American district. And he's won with 61 percent of the vote, 66 percent of the vote, almost 67 percent of the vote – vote and 58 percent of the vote.

And I did run in 1998 – well, I – I – well, and I've – I've – I've – in Congress, I have not been able – been in a majority black district in a number of years and I've won handily, yes.

Q. So I'll – I'll – I'll talk a little bit more [175] about District 12 in a minute. But I want to ask you about – so you talked about the – the every two years you've been involved either as a campaign manager or a candidate. Can you just describe a little bit about what knowledge you gained about voting patterns as a result of doing that work? Do you look at election returns? Do you talk to voters? Do you do public opinion polling? Can you tell us what you do?

A. I do all of those things and have done all of those things both as campaign manager and as candidate. And going back to 1979, 1983 when Harvey ran for mayor, one of the compelling arguments he made to me was that he was the person on city council who was making – forming the coalitions of – of groups across racial and community lines and that's how he decided he was going to run for mayor in the first place.

Q. So – so based on your knowledge of voting patterns in Mecklenburg County from the – the work that you've done in the – in the political process and – and – and what you – and – and going back to what

you've just testified to, to the African Americans who won in majority House districts and majority Senate districts – I'm sorry – in House districts and Senate districts that are not majority black in Mecklenburg County, how do those – if – if voting is racially [176] polarized, how do these African American candidates win?

A. Well, they win with a coalition of African American and white voters. And there's a long history of that in – in Mecklenburg, and I think we are – we are continuing to advance that history, which is actually why we didn't try to reauthorize the Voting Rights Act for permanently. We – we authorized it because it was intended to be a transitional remedy to level the playing field and make it possible for African American candidates to get elected.

As racial polarized voting was diminishing over time, we hoped. And so that was – I mean, I think we are making progress toward that.

Q. So is it necessary, then, to draw a State House or State Senate District in Mecklenburg County that is over 50 percent black in voting-age population in order to get the black voters of that county a fair chance to – to elect their candidates, their preferred candidates?

A. No.

Q. Are you aware of any successful Section 2 lawsuit – Section 2 of the Voting Rights Act – brought against any office in Mecklenburg County since the Gingles litigation?

A. No. I don't think there has been one.

[177] Q. Okay. So now I want to turn to District 12. Do you know roughly what the racial composition was

of Congressional District 12 when you first ran for Congress in 1992?

A. I think in 1992, ultimately, it was probably majority black.

Q. And – and then how did the district change after you were elected?

A. Well, you know, it went through litigation in which the courts said that race was being taken into account to too much of an extent. And at various times, it has gone – I've run in 32 percent African American districts. And, finally, it settled down to about a 40 percent African American district, which is what it was up until the most recent round of redistricting.

Q. So do you recall, was it 1998 when the district was 32 percent black voting-age population?

A. I think that's probably the – the – yeah, it was – yeah, it was – that was the third or fourth iteration of the 12th Congressional District, and –

Q. And –

A. – and the minority percentage was drawn way down, yes.

Q. But you still won in 1998?

A. I got about 56 percent of the vote in that [178] election even though it was the election in which well over a million dollars was spent against me around an issue that I voted against and been the only member of the U.S. House of Representatives to vote against it. And they made it an issue. The – the numbers were way down. They spent over a million dollars telling people how terrible I was.

In fact, the weekend before the election, my mother called me and said, Are you as bad as they say you are?

And I assured her I was the same person that that I – she had grown up – she had – had grown up with her. Yeah.

Q. So between 1998 when the district went down to 32 percent and 2012 when it was redrawn, in the – in the other years – in all those years in between, did it ever again become a majority black district?

A. Not the – I don't think so. And in most of those elections, I was getting consistently above 60 percent, 65 percent of the vote.

Q. So am I right that out of the 10 times that you were elected in District 12 between 1992 and 2010, only three of those times was your district majority black?

A. I think that's correct.

Q. Now, when the census data was released in 2011, was District 12 overpopulated or underpopulated as [179] compared to the ideal district size?

A. It was 2,847 people overpopulated.

Q. So that meant – what about how the district needed to change?

A. Well, it needed to lose 2,000 –what did I say – 2,847 people to get – comply with the "one person, one vote" requirement.

Q. Out of how many thousands of people?

A. That was probably up to about 700,000 people at that time.

Q. Did you have any discussions with Senator Rucho about how Congressional District 12 could be redrawn?

A. I sure did, yes.

Q. Were those – were those in-person discussions?

A. Yes. I – I've known Senator Rucho – "Bob" I call him – because he was my orthodontist and I considered him a long-term friend. And he called and invited me to come to Raleigh to sit down with him and to express my views on what should be done with the 12th Congressional District.

I met with him on April 25, 2011 – I'm – I have the notes here, so I'm refreshing my recollection – in Raleigh. And I told Senator Rucho that I had looked at the numbers, that the 12th District was 2,847 people overpopulated; and that because the [180] district had been through so much litigation in the '90s and a lot of confusion in the 2000s that I thought they should try to do what I call a minimum change district.

And I told him that the ideal way from – from my perspective to do it would be to drop two precincts in Mecklenburg County. I identified the two precincts. They were the Davidson College precinct and the precinct that was right beside of the Davidson College precinct. And the reason I identified those two precincts was that the people in Davidson at Davidson College had lobbied the Legislature in – in 2000 to stay in the 12th Congressional District.

My district at that time went up 77 and up 85. And so it was easy for me to get up to Davidson and represent the people in Davidson because I had Huntersville, Cornelius, Davidson, Mooresville. In fact, at one point, I went all the way into – into Iredell County, had part of Statesville. But by that time, it – I think it stopped at Mooreville. And the folks in Davidson wanted to stay in the district, but a lot of people needed to go out of the district because of the pretty substantial population.

So to accommodate the folks in Davidson, the State Legislature based on the 19 – based on the 2000 Census had gone across the Cabarrus County line, [181] across a heavily Republican precinct to the heavily Democratic Davidson precinct. Politically, it was a wash; but they wanted to stay in the district.

And I said, Bob – Senator Rucho, I over the last ten years don't feel like I have represented the city – the Town of Davidson because it's the only part of my district that is up Interstate 77. The rest of my district orients up Interstate 85. I get to all of the other parts of the district, but I seldom get to Davidson. I think – I hate to lose Davidson, but it would be a political wash. And I think these are the two precincts you should – you should drop. As a result of dropping those two precincts, which were pretty heavy population precincts, it would have been necessary to add two smaller precincts, and I suggested the precincts that he should add.

And he seemed very receptive to it. And we talked about Greensboro, because there had been some speculation that they might draw a district that would take part of Greensboro, Guilford County, out of my Congressional district. I told him that Greensboro was a Section 5 county, that he needed to be very careful about retrogressing because of that, based on my understanding of the law, and that he might – might have some problems if he took Greensboro out. And then I left. He didn't [182] show me any maps. I didn't show him any maps, but I talked about this minimum change concept with him.

That was April 25, 2011. In May or June – and I don't have the specific date of this because it never got on my calendar because Bob Rucho called me at home over the weekend and said, Will you come and sit with

me again? I said, Yeah, I would love to come and sit with you again; but I don't want to have to drive all the way to Raleigh to do it. Both of us live in Mecklenburg County. So he invited me out to his house and I went to his house.

And it was at that meeting that he told me that his leadership had told him that they were going to ramp the 12th Congressional District up to over 50 percent black, that they believed it was required by the – by the Voting Rights Act, and that and he seemed fairly distressed about it because he said that they had given him the task of going out and selling this to the black community as being in their interest.

MR. PETERS: I'm sorry, Your Honor. Objection. Move to strike for hearsay.

JUDGE RIDGEWAY: Sustained as to –

MS. EARLS: Your Honor, may – may I be heard on that?

JUDGE RIDGEWAY: Go ahead.

[183] MS. EARLS: I believe this is an exception to the hearsay rule. It's the statement against the interest of the party opponent.

JUDGE RIDGEWAY: Mr. Peters.

MR. PETERS: Your Honor, I would suggest it's not a statement against the interest of the party opponent. It's at best a statement about what other people were saying, that we sort of have a double hearsay problem here with the testimony being that the Congressman is saying what Senator Rucho said other people told him.

JUDGE RIDGEWAY: All right. Ms. Earls, I think your point is well taken. To the extent you're repeating

what the Senator said to you, other than what he said someone had said to him, the double hearsay problem, the objection is overruled. To the extent that you're repeating something that was told to Senator Rucho, it will be sustained.

MS. EARLS: Thank you, Your Honor.

THE WITNESS: Well –

BY MS. EARLS:

Q. So – so I'll – I'll – tell me – I want to ask you about the – the second meeting. You were explaining that – that he had told you they were going to take the district over 55 – 50 percent black. What [184] was your response to him about that?

A. It was the same response that I had given him in the earlier meeting in Raleigh. I – I told him that from my understanding of the law, it was not required, nor sanctioned, by the Voting Rights Act. And to the extent that he was telling me his role in the process was going to be that he was going to have to sell this to the African American community as being in their interest, I told him – I actually laughed and said, There is nobody in the African American community that's going to believe that you are doing this because it's in the black community's interest, and I'm not going to be able to – to support that because I don't think it's in the African American community's interest to do this.

I said, It's one thing not to retrogress. There may be an – an – a requirement not to diminish the African American vote. But there's certainly no requirement when I'm winning 65 percent of the vote to in a 40 percent black district to increase the African American percentage to over 50 percent. I said, I might get 80

percent of the vote in this district. And, in fact, I did get 84, almost 85 percent of the vote in the newly drawn district in the – in the last election.

Q. In front of you is a notebook. It's the big white exhibit notebook. And I would ask you to turn to [185] the very last tab in the notebook. It's D, D5.

A. I'm sorry. Say it again.

Q. If you look at the very last tab in the notebook, it's Tab D5.

A. Yes.

Q. The first page behind that tab, can – can – can you identify what that is?

A. Yes. This is a letter that I wrote. It's dated July 8, 2011, to the – to Senator Rucho and Representative David Lewis in which I took him on for misrepresenting what I had said to him because I guess well, I shouldn't say – I can't say that.

Q. That's fine. Thank you.

But that is the letter that you wrote? A. Yes.

Q. And then the next – the next document behind the same tab is a portion of the transcript of the proceedings on the floor of the North Carolina Senate dated July 25th, 2011. And the excerpt starts at page 37. And there beginning at line 11 –

MR. FARR: Your Honor –

Anita, excuse me. Where are you in your notebook?

MS. EARLS: It's Tab D5. It's the very last tab. And –

[186] MR. FARR: Okay.

BY MS. EARLS:

Q. And it's the – it's essentially the third page behind D. It's starting there. And I'm looking at page 37 of that transcript. That – following up to page 39, is Senator Graham reading a statement that you submitted? Is that correct?

A. That's correct, yes. I submitted a statement, and I think this was on the floor. I also submitted a statement earlier for the committee.

Q. Well, that's what I want to ask you about, because it says on page – on line 17 of that: First, I wish to reiterate all the comments I made in my statement submitted and read into the record by Senator Malcolm Graham at the public hearing on July 7th, 2011.

A. That's correct.

Q. Okay. I – I want to show you –

MS. EARLS: Your Honor, this document is part of – is a transcript of the public hearing. I – I want to mark it as – I'll have copies for the Court. Just one moment. I want to show opposing counsel. And if I can hand this up to the Court.

JUDGE RIDGEWAY: Yes, please. If you want to approach.

BY MS. EARLS:

[187] Q. I'm handing you what's been marked for identification as Plaintiffs' Exhibit 32.

A. Yes.

MS. EARLS: May I approach, Your Honor.

JUDGE RIDGEWAY: Yes, ma'am.

BY MS. EARLS:

Q. So what's been marked as Plaintiffs' Exhibit 32 is a Transcript of the Proceedings of a public hearing on redistricting, and it's dated July 7th, 2011. This is just an excerpt. It starts at page 91. And if you look at line 22, you'll see that Senator Graham is beginning to read a statement on your behalf. Is that the statement you're referring to?

A. Yes, it is. I sent the statement to Senator Graham, because I was not able to be at the public hearing that was being held.

Q. And if you look through the pages of the transcript, 92 to 95, you'll see, for example, at line 18, there's something – it says in parentheses "unintelligible"; 21 – line 21, it says "unintelligible"; on the next page, line 8, "unintelligible." And if you go through that, there's a – I counted 14 different times where the reporter – court reporter found it unintelligible.

My –my –my question to you is: Do you [188] have another document that actually has a transcript of the statement that you provided?

A. Yes, I do. I retained a copy of what I sent to Senator Graham and asked him to submit it for the record.

Q. And this is – I

MS. EARLS: Your Honor, this document I provided to opposing counsel this morning, and I've marked it as Plaintiffs' Exhibit 30. May –may I approach?

JUDGE RIDGEWAY: Yes, please.

MS. EARLS: May I approach the witness?

JUDGE RIDGEWAY: Yes, please.

BY MS. EARLS:

Q. Okay. I'm handing you what's been marked as Plaintiffs' Exhibit 30. Is that the statement you – you were just referencing?

A. It is the statement. Attached to the statement was six pages which I referenced in – in the statement, and the six pages that are attachments to it are not attached to this; but one of them was the -- the two district – two precincts that I suggested be taken out of the 12th District, the two precincts I suggested be added to the – to the Congressional district, some maps that showed what those precincts looked like and why I was suggesting that they were appendages, and a press [189] release that I had released once I heard through the media what – what Senator Rucho was saying was part of his rationale for drawing the 12th Congressional District the way that it was drawn.

Q. So – so when did you prepare this statement and the PAC that you just described?

A. I prepared it in preparation for the hearing that was held on July 7th, so it would have been sometime in late June or early July. I don't know the exact date of the –

Q. And then what did you do with it after you prepared it?

A. I sent it to Representative – I sent it to Malcolm Graham and asked him to read it into the record or to submit it for the record at the public hearing that was being held regarding redistricting.

Q. And was it your understanding that he was going to submit the entire packet –

A. Yes.

Q. – the maps, and the statements?

A. Yes.

MS. EARLS: Your Honor, at this time, I would move to admit Plaintiffs' Exhibits 32 and – well, 30 and 32.

JUDGE RIDGEWAY: Any objection?

[190] MR. PETERS: No objection.

MR. FARR: No.

JUDGE RIDGEWAY: All right. They are allowed.

MR. FARR: Your Honor.

JUDGE RIDGEWAY: Yes.

MR. FARR: I – I do have an objection. I really don't have an objection to these exhibits, per se; but my objection is to restate the concerns we had about this witness not being listed as a witness who would testify at this hearing, thus depriving the Defendants a chance to take his deposition in anticipation of the testimony he's giving today.

JUDGE RIDGEWAY: All right. We – we previously ruled on that objection, that we are admitting – or we are not going to exclude evidence, but rather are resting on the presumption that only competent and admissible evidence will be considered by this Court and it will be given the appropriate weight.

MR. FARR: Thank you, Your Honor.

JUDGE RIDGEWAY: So your objection is noted.

MR. FARR: Thank you very much.

JUDGE RIDGEWAY:Thank you.

Ms. Earls.

[191] MS. EARLS: Thank you, Your Honor.

BY MS. EARLS:

Q. I wanted to ask you a couple questions about something you said about Guilford County being a Section 5 county, and I just want to – to be clear. When it – was it necessary to increase the black percentage of District 12 to over 50 percent black in order to comply with Section 5 of the Voting Rights Act?

MR. FARR: Objection.

A. Not in –

JUDGE RIDGEWAY: Overruled.

THE WITNESS: I'm sorry.

JUDGE RIDGEWAY: Go ahead, sir.

A. Not in my opinion.

Q. And – and why not?

A. Well, if there had been a basis for it, it would had to have been in Guilford because it was a Section 5 county. There certainly wouldn't have been a basis for it in Mecklenburg. It's – Mecklenburg is not a Section 5 county.

But I didn't think there was a basis for it anyway, because as I understood the law – and, I mean, I'm pretty versed in this – to the extent that there was a requirement – there was a requirement not to retrogress, but certainly there was no requirement to [192] increase or pack more and more African Americans into a district that was already electing candidates of the African American community's choice.

Q. And over the time that you've been involved in – in politics in Mecklenburg County from 1974 until

the present, have you seen a difference in the voting patterns of black and white voters in that county?

A. Yes. I mean, I think there is less and less attention to the race of the candidates and more and more attention to – to what they stand for, and – and that's consistent with the Voting Rights Act from my understanding of the reason the Voting Rights Act exists.

Q. In the submission that the State of North Carolina made to the Justice Department for preclearance of the Congressional Redistricting Plan and this was – this is a document that was designated by the Defendants for the purposes of this issue. I don't have a copy, but I'll just read – I would just like to read to you from what the – what was this – and I'm reading from the North Carolina Section 5 Submission for the 2011 Congressional Redistricting Plan, and this is the compendium at page 15.

In – in the submission, the State wrote: Based in part on this input from Congressman Watt, the chair is recommending and the General Assembly enacted a [193] version of District 12 that is similar to the 2001 version. And then it goes on to say: Under the 2010 Census, the total black voting-age population for the 2001 version of District 12 is 43.77 percent. The total black voting-age population for the 2011 version is 50.66 percent. Thus, the 2011 version maintains and, in fact, increases the African American community's ability to elect their candidate of choice in District 12.

And my question for you is: Based on your experience with knowing the voters of Mecklenburg County, does that increase – actually increase the African American community's ability to elect their candidate of choice?

A. No. Because the African American community was already electing the candidate of choice for 40 – whatever the lower percentage was – was and to – and with 60 to 65 percent voting margin. And by and – increasing it, all you did was increase the voting margin to 84 or 85 percent, which is exactly what happened in the 2012 election.

MS. EARLS: Thank you. I have no further questions.

JUDGE RIDGEWAY: Cross-examination, Mr. Peters?

MR. PETERS: Thank you, Your Honor.

[194] CROSS-EXAMINATION

BY MR. PETERS:

Q. Good afternoon, Congressman Watt.

A. Good afternoon.

Q. Alec Peters from the Attorney General's Office.

Earlier when you were testifying about various districts in Mecklenburg County, I believe, in talking about the percentages of them, you were referring to some papers you have up there. I was wondering if you could tell me what it is you were looking at.

A. I accumulate a bunch of papers regarding – what I did was just go back and pull stuff from a redistricting file. This was just a listing of – of various African American candidates. And at the top of it, it says, "Evidence of African American Officials Elected in Nonmajority Black Districts In Front of General Assembly During the Redistricting Process."

I can't tell you where I got this because I – I mean, I – I – I – I accumulate documents.

Q. Well, would that be something you compiled or –

A. No.

Q. – the staff compiled?

A. It wouldn't be something I compiled, no. I didn't compile it, no.

[195] Q. All right. And – but you don't recall who did compile it?

A. I don't know who compiled it, no.

Q. All right. Did I understand you and I apologize if I did not – did I understand you to say looking through that that Representative Moore's district, which I believe is District 99, had a black total – total black voting-age population of around 27 percent?

A. According to this, it was 27.74.

Q. All right.

A. But I can't verify that that's accurate, if that's the question you're asking me.

Q. And so I would take it from that you don't know whether that's under the 2010 Census data or the 2000 Census Data or – or do you?

A. It says in the far left column "2010," but I don't know at what point it was compiled, so I don't know the answer to that.

Q. All right. So you – you don't know whether that 27 percent is accurate?

A. I – I can't personally verify it, no.

Q. Then you testified that at least in recent memory, district – Congressional District 12 has not been a majority black district. Do I understand that [196] correctly?

A. That's correct.

Q. Okay. It hasn't been a majority white district either, has it?

A. Probably not. There are – actually between the 1990 and the 2000 Census, I think the 12th Congressional District had the highest percentage increase of Hispanic voters in the country. It's a little misleading because it was like below 1 percent –

Q. Right.

A. – and it went to like 8 percent, so it was like an 800 percent increase. So I – I know there are – there are pockets of Hispanic voters throughout the district, yes.

Q. Do – do you know in 2010 what the breakdown for the district would have been between white, black and Hispanic voting-age population?

A. I – I don't know off the top of my head, because, you know, I've – I've pretty much long since quit paying attention to that kind of stuff. I represent all of the district. I try to represent – and – and I've been fortunate to get support from African Americans, Hispanics, whites, Democrats and Republicans over the years. So I – I really don't pay a lot of attention to the statistics, [197] except for situations like this.

Q. Okay. So does that mean, then, you don't pay attention to which specific voters or which groups of voters your support is coming from and which ones it's not coming from?

A. I – I look after an election is over, but it doesn't influence the way I run a campaign, and it certainly doesn't influence the way I represent the district between campaigns.

Q. Right. Now, you testified some to the fact that the district was overpopulated and that you had the

suggestion of moving two precincts out of the district and two other smaller precincts into the district; is that correct?

A. Yes.

Q. But, of course, at the same time, other districts were also either overpopulated – other Congressional districts in North Carolina were either overpopulated or underpopulated, were they not?

A. Yes.

Q. So merely moving two districts and one Congressional district, like District 12, or trading two precincts might not take into account the needs of other districts that have an effect on District 12; is that correct?

[198] A. That's correct. And I was focused primarily on the 12th Congressional District.

Q. Sure.

Were you – when the redistricting process was going on, were you familiar with the maps that were prepared by a group called AFRAM?

A. No. Not – no.

Q. Did you participate in any way in – in the discussions on – or the preparation of those maps?

A. No. The only map I actively participated in was a map that was prepared by the Congressional Black Caucus Institute. We had some people drawing maps to try and make sure that – that people who were already in Congress didn't get unintentionally adversely impacted, and that was the only involvement. I sat with those people who were doing those maps to talk about the 12th District, and I think G.K. Butterfield probably sat with them to talk about the

1st Congressional District. But those were – that was the only map drawing in which I was actively a participant.

MR. PETERS: All right. If I can have one minute.

JUDGE RIDGEWAY: Yes, sir.

(Pause.)

MR. PETERS: That's all I have.

[1499] JUDGE RIDGEWAY: All right. Mr. Farr, any questions?

MR. FARR: I have some questions, Your Honor.

Your Honor, may I distribute maps of the 2001 Congressional Plan and the 2011 Congressional Plan to the Court and to the witness? And these are in the map notebook –

JUDGE RIDGEWAY: Yes.

MR. FARR: – but I noticed that y'all didn't have those with you.

JUDGE RIDGEWAY: We do. But it would probably be easier just to distribute it that way.

MR. FARR: All right.

JUDGE RIDGEWAY: But let's mark it for the record, if you haven't already.

MR. FARR: The 2001 Congressional Plan is called "Congress Zero Deviation." I've marked that as Defendant's Exhibit 15. And the 2011 plan, which is "Rucho-Lewis Congress 3," I've marked as Defendant's Exhibit 16.

JUDGE RIDGEWAY: That's fine. If you'll hand several up here and make sure the witness has one.

CROSS-EXAMINATION

BY MR. FARR:

[200] Q. Congressman Watt, good to see you again.

A. Good to see you.

Q. Congressman Watt, we seem to run into each other about once every 20 years, so it's nice to see you again.

A. I don't think you'll have me to beat up on 10 years from now.

Q. I don't think I'll be the one doing the beating up.

Congressman Watt, did I recall that you practiced at the Ferguson Stein firm?

A. That's correct, yes.

Q. Did your tenure there overlap with Ms. Earls?

A. It did, yes.

Q. Do you know Ms. Earls?

A. Yes. I recruited her to the firm.

Q. Do you think she is a good lawyer?

A. The best.

Q. If she's made the statement "the districts were needed to comply with the Voting Rights Act," do you think it would be reasonable to rely upon that representation?

A. Well, you know, what's needed to comply with the Voting Rights Act I found sometimes is quite in the eye of the beholder, and sometimes I agree with her and [201] sometimes I don't agree with her. So I – I don't know that I would take anybody's representation

about that at face value without knowing what stands behind it.

Q. Okay. As I think back through history, I

believe that you were elected to Congress in 1982 when the district was challenged in the Shaw case; am I correct?

A. "1992" you mean

Q. 1992

A. Yes

Q. Okay. So do you – did you testify in the *Shaw* case?

A. I think I did –

Q. Yes, sir

A. – at some point. There were a lot of proceedings in that case, yes.

Q. Have you read that case?

A. Have I read the

Q. Supreme Court.

A. – Court's decision?

Q. Yes. Yes.

A. I probably have at various points in bits and pieces; maybe all of it at some point.

Q. Okay. So – and you were in Congress elected in the district – one of the districts that was at issue [202] in the – in the *Cromartie* case?

A. I'm sorry. Say it again.

Q. When the *Cromartie* case was decided by the Supreme Court, were you still the representative for the 12th Congressional District.

A. In which case? Oh, *Cromartie*.

Q. *Cromartie*.

A. Okay. *Cromartie*.

Q. Well, Congressman, I – I – I say "Cromartie."

A. Okay.

Q. And Mr. Peters is from that part of the state and says "Cromartie."

A. Okay. I – I –

Q. So I tend to go back and forth, but I think it's "Cromartie," if we say it that way.

A. I just didn't understand, yes.

Q. I'll probably say "Cromartie" –

A. I was there, yes.

Q. – or "Cromartie." I'll say it both ways.

A. Okay.

Q. You were in the Congress when Cromartie was being decided by the Supreme Court.

A. I think that's right, yes.

Q. Okay. And that district was challenged as a racial gerrymander both in the *Shaw* case and in the [203] *Cromartie* case; is that right?

A. Yes.

Q. Okay. What – when you met – you described your discussion with Representative Rucho about him being told by the leadership to push the population in

the 12th District over 50 percent. Did I hear you say that you did not think that was a good thing for the black community?

A. Yes. I told him that, that I thought given the experience and history that it was unnecessary and not not warranted or mandated by the Voting Rights Act.

Q. Okay. And based upon your knowledge of the Shaw and the Cromartie case, would a statement like that be relevant evidence for making the case that race was the predominant motive for drawing the district?

MS. EARLS: Objection.

MR. FARR: He testified about legal opinions on direct examination over my objection, Your Honor.

JUDGE RIDGEWAY: Overruled.

A. So I'm sorry. I didn't understand the question anyway, so...

Q. Well, you're a lawyer. You're – I'm sorry, sir. I apologize for that. But you're – you're a good lawyer, in my opinion, Congressman Watt. And you were [204] heavily involved in the *Shaw* and the *Cromartie* case since you were a congressman in that district. And Senator Rucho made a comment to you about others in the General Assembly wanting to draw that district intentionally over 50 percent. Would that type of evidence in your view be relevant evidence in a racial gerrymander case?

A. Well, if it was – if – if the chairman of the Redistricting Committee told me that he was intentionally ramping up African American representation from 40 to 50 percent, it would certainly be relevant, yes. And – and if he told me, as he did, that he was doing it at the insistence of his leadership and if he told me,

as he did, that he was doing it and was going to go out and – and convince the African American community that it was in their interest, all of those things would make it relevant, yes.

Q. Okay. And you didn't like the idea of the district being drawn over 50 percent.

A. It wasn't so much that I didn't like it. I mean, you know, it obviously from an electoral perspective made my reelection bid a lot easier, as the numbers reflect. But it was inconsistent with my view of what the Voting Rights Act was designed to accomplish, which is over time to have less and less and less consideration of race in the drawing of districts as [205] racial attitudes softened over time, which is why the Voting Rights Act is a transitional remedy rather than a permanent remedy.

Q. All right, sir. And if Mr. – if Senator Rucho had made that statement to you, as you testified, wouldn't that have been important information that the General Assembly should have been made known of? Would you agree with that?

A. Perhaps, yeah.

Q. Okay. Let's turn to the white notebook that's the Plaintiffs' trial notebook. And I guess this is – this is D5. It's your letter of July 8th, 2011.

A. I'm sorry. Which – which tab are you?

Q. It's – it's Tab D, No. 5.

A. Okay.

Q. All right. And –

A. That's the July 8, 2011 letter?

Q. Yes, sir.

A. Okay.

Q. And this meeting that you have described with Senator Rucho took place before this letter?

A. Yes.

Q. Okay. Now, this letter is July 8th, 2011; and the testimony you are giving today is –what's today's date? June 4th, 2013; am I right?

[206] A. I think that's right.

Q. Okay.

A. Somewhere in that neighborhood.

Q. I'm close. It's – it's approximately June –

A. Close enough for government work, as we say.

Q. Yes, sir.

Now, in your letter of July 8th of 2011 to Senator Rucho and Representative Lewis, you cc'd a number of people on the second page: Senator Floyd McKissick, Malcolm Graham – Senator Malcolm Graham, Representative Kelly Alexander, Representative Beverly Earle, Representative Earline Parman, Senator Dan Blue, Representative Angela Bryant. Is that correct?

A. Yes.

Q. Okay.

A. Urn-hum.

Q. And those are all members the Legislative Black Caucus?

A. That's correct.

Q. Anywhere in this letter, Congressman Watt, did you reference or mention the statement that you have testified about that Senator Rucho allegedly – excuse

me – you've testified that Senator Rucho made to you about being told by the leadership to ramp the black percentage over 50 percent; is that –

[207] A. No, I didn't mention it in this letter.

Q. Okay.

A. If you take a look at the second sentence of the second paragraph, it might give you some – some basis for the – for – for why. I mean, Bob Rucho and I have been friends for – for – for a long time before he was even elected to the – to the State Senate. And all of these conversations, until he misrepresented what I had said to him, I thought were private conversations between the two of us.

Q. But you've testified

A. But I thought – I – I – I actually thought I was being a good adviser to him on – on how to draw these maps off the record until he put them on the record.

Q. But you've testified that he mentioned to you a statement by others indicating a desire to base this 12th District on race, and you decided that was not important enough to include in this letter of July 8th after Senator Rucho, in your terms, had misrepresented other things you had said.

A. That's right.

Q. Okay. Then let's go to the next statement from you, which is – turn a few pages. There's a transcript from a hearing on July 25th of 2011.

[208] A. I'm sorry. Where – where are you now?

Q. Congressman Watt, it's under the same tab, but it's a few pages into the tab. And there's a transcript there that says, "Transcript of the Proceeding, Monday, July 25th, 2011." Are you – have you found that?

A. Yes.

Q. Okay. And then if you turn to page 37, you testified about this when you were under direct examination. Can you please refresh my memory for what this testimony – this statement that's attributed to you in – on page 37, what – what exactly is that?

A. I'm sorry. Would you ask your question again?

Q. Well, on page 37 starting on line 11, one of the members is reading this statement of Congressman Mel Watt regarding proposed Rucho-Lewis Congress 2 Plan, July 21st, 2011. Do you see where I am?

A. Yes.

Q. And then your statement was read into the record and – on page 37 and going on to page 39; is that correct?

A. Yes.

Q. All right. Now, was this statement prepared by you after you had the meeting that you testified about with Senator Rucho?

A. Yes.

[209] Q. And in the meeting, you've testified that Senator Rucho made statements that indicated someone in leadership had intended to draw the 12th District based upon race, right?

A. Yes.

Q. And in this statement that is – that you prepared on July 21st and which was read into the record, is there any mention in your statement of July 21st about the conversation with Senator Rucho?

A. No.

Q. All right. Then let's turn to Exhibit 32, Plaintiffs' Exhibit 32. Do you have that, Congressman Watt?

A. Yes. The full context – content of it is actually in Plaintiffs' Exhibit 30, I think

Q. Okay.

A. – the actual statement, I assume.

Q. Let's look at both of these statements. Let's look at the transcript. Senator Graham is reading into the record on Thursday, July 7th, 2011 at a public hearing, it appears, a statement that you had prepared. Is that right?

A. That's correct.

Q. And this statement that was offered on July 7th that you had prepared was after the meeting that you had [210] with Senator Rucho where he – where you testified that he was told by leadership to draw the district up to over 50 percent; is that right?

A. That's correct.

Q. Is there – do you anywhere in this statement that you made and released on July 7th reference the conversation that you testified about with Senator Rucho?

A. I do not, no.

Q. Okay. And then Exhibit 30 is the – you testified this is the actual statement.

A. Yes.

Q. And is there any date on this exhibit?

A. No date on the exhibit, but it was prepared to be submitted for the July 7, 2011, committee hearing.

Q. All right.

A. So it would have been probably a day or two or maybe even the same day sent down probably on the same day as that.

Q. Okay. And you've testified today about a statement by Senator Rucho that could be used to prove that the General Assembly intentionally drew the 12th District because of race. Did you mention that statement in Exhibit 30?

A. No, not directly.

MR. FARR: All right. No further [211] questions, Your Honor.

JUDGE RIDGEWAY: Redirect?

MS. EARLS: Yes, your Honor.

REDIRECT EXAMINATION

BY MS. EARLS:

Q. Going back to the Tab 5 that you were just asked about, the – this is – this is the statement that was read on the floor of the Senate July 25, 2011. It comes right behind your letter. If you would look at page 38.

And beginning at line 8 of that transcript, do you see the transcript says: I have repeatedly expressed to Senator Rucho my belief that increasing the African American population in the 12th District is not required, justified or sanctioned by the Voting Rights Act. The Voting Rights Act, which I was instrumental as a member of the House Judiciary Committee and as a chairman of the Congressional Black Caucus to get Congress to reauthorize and extend, was designed to counteract the ethnic and racially polarized voting and level the playing field for African American candidates

and voters. It was not, as several court decisions have indicated, designed to create racial ghettos in which African American candidates are given inordinate and unreasonable election advantages.

[212] And that's what you wrote in your statement.

A. That's correct.

Q. So is it fair to conclude that from that statement that you made that – that you considered increasing the district above 50 percent to be based on race?

A. Yeah.

MR. FARR: Objection.

A. I mean, I –

JUDGE RIDGEWAY: Sustained as to the form of the question.

MS. EARLS: I'm sorry.

THE WITNESS: I'm sorry.

JUDGE RIDGEWAY: It's – it's a leading question.

MS. EARLS: Right.

JUDGE RIDGEWAY: If you want to re – rephrase it.

MS. EARLS: Thank you, Your Honor.

BY MS. EARLS:

Q. Then my question would be: What – what does this statement indicate about whether the 12th District as it was being proposed in – by – in the Rucho Congressional Plan, what was – what was the motivating [213] factor behind it?

A. Well, let me put this in context. You know, I've said this before: Bob Rucho is my friend. We've known

each other for – you know, we had discussions off the record. If he had not misrepresented what I said, I never would have done any of this. What led me to – to – to submit both of these statements was his representation to the public that this was my idea to increase the African American population in the 12th Congressional District from 40 percent to over 50 percent, which was just out and out not accurate.

Still doesn't mean that Bob Rucho and I are not friends. I'm not trying to out him publicly. But what is absolutely clear to me was that, number one, this was not my idea. Number two, I had told him unequivocally that it was not mandated, justified or anything under the Voting Rights Act.

That he had told me that – that it was his job to go and sell it is – is one thing for him to go and sell it; but to go and sell it by telling a lie about whose – whose – whose idea it was, was just in in my opinion over the top.

But, still, you know, I'm not in the business of outing people. I'm trying to protect the friendship, and I – I tried to do that. But regardless [214] of how you put it, in my opinion, this was neither justified, sanctioned, mandated by the Voting Rights Act or anything that has occurred in North Carolina in the 12th Congressional District that would justify going from a 40 percent district where an African American is getting over 60 percent of the vote consistently to a district that is over 50 percent black in which I predicted in retrospect correctly that – that I would get over 80 percent of the – the vote.

That is not what the Voting Rights Act, in my opinion, was – was designed to do. And I made that clear from the very first time I met with Bob Rucho on

April 25th to the second time I met with him when I laughed at his representation that he was going to go out and sell it to the black community to these two statements, both of which have been a part of the record.

So I don't know how else I can explain that. I don't know whether that's responsive to either your question or Mr. Farr's question, but I'm just trying to give you the context in which I try to conduct my life. I don't lie about people, but I don't expect them to lie about me either.

MS. EARLS: No further questions, Your Honor.

MR. FARR: I have some, Your Honor.

[215] JUDGE RIDGEWAY: Yes, sir.

RECROSS-EXAMINATION

BY MR. FARR:

Q. Congressman Watt, I recall your testimony was that Senator Rucho tells you that leadership told him that the district needed to go above 50 percent. Am I remembering that correctly?

A. That's correct.

Q. Okay.

A. And he seemed rather embarrassed about it because I thought he had been very receptive to – at the first meeting to the minimum change idea that I advanced to him.

Q. Okay. I want to make sure that I understand what you claim Senator Rucho got wrong about what you told him. Can you point me to any public statement from Senator Rucho where he said that you were

the person who came up with the idea to draw the district over 50 percent?

A. Yeah. It said – it's – it's in two or three places. I don't know that I can put my fingers on it right now, but he – he represented that that somehow this was my idea, that he was doing this at my instance; and that is just blatantly untrue.

Q. And you say there's a public statement by him [216] where he represented that it was your idea to draw the district over 50 percent.

A. There's a question mark at the end of that? I'm sorry. Say it again.

Q. Yeah. There's a question.

A. Say it

Q. I said: You're – you're telling the Court that Senator Rucho made a public statement saying that you, Congressman Watt, was the person who came up with the idea to draw the district over 50 percent.

A. Well, I don't know if he said I came up with the idea, but he said he was doing it on – at my instance and that I sanctioned it and it was – I don't – I don't I don't know the exact words, but it was untrue.

Q. Well, there's a lot to a district. When he said that he was doing something that your – with your approval

A. No. This was about the minority representation, the minority percentage in the district.

Q. Okay. So you're saying that he made a – he has made a public statement saying that you were the person who told him to draw it over 50 percent.

A. Yes. That's why I did the first statement and that's why it starts by saying, I wish to submit this [217] statement for the public record to provide additional context to the selective and misleading characterizations of my opinions that the chairs of the North Carolina Legislative Redistricting Panel have entered into the record.

Q. And that –

A. So it is in the record somewhere and I don't –

Q. And the letter – the letter that you wrote and all the other statements that we've looked at by you do not state that one of the misleading things that Senator Rucho said was that you recommended to draw the district over 50 percent. You didn't say that in any of your statements, correct? You went over them and there's nothing in your statements about that.

A. I'm – I'm sorry. I don't understand the question you asked.

Q. Okay. I'll try it again.

There's nothing – there's nothing in your statements that we've looked at – four different statements – stating that Senator Rucho has misrepresented that "I was in favor of drawing the district over 50 percent"?

A. No. I think you are incorrect about that.

Q. Okay. Well, tell me – you look for it and you tell me where it is.

[218] (Pause.)

A. If you look at the second sentence of the July 8th, 2011, it says: I'm writing to correct statements that you attributed to me in Claim 2 of the statement that you either misconstrued or misrepresented.

Q. Okay. Anything else?

A. I – I'm not sure what you mean is there "anything else"?

Q. Well, anything else that you say reflects a statement by you that Senator Rucho publicly and falsely attributed to you the idea of drawing the district over 50 percent.

A. The first paragraph of the statement that I submitted –

Q. All right.

A. – says the same thing. I don't know how many ways I can say it.

Q. All right. Thank you, Congressman Watt. I just have a couple other questions.

I – I distributed to the Court and you the 2001 Congressional Plan which was called the "Congress Zero Deviation" as Exhibit 15 and the 2011 Congressional Plan "Rucho-Lewis Congress 3," which is Exhibit 16. Can you take a look at those for a second?

A. Yes. I'm not sure I know what Congress Zero [219] Deviation is that the original – was that the –

Q. Yes, sir. I think everyone will agree that's the 2001 Congressional Plan.

A. That's the 2000 –

Q. And '1?

A. – and '1 Congressional

Q. Right.

A. Okay.

Q. And then Rucho-Lewis Congress 3 is – is the was enacted by the General Assembly in 2011.

A. Okay.

Q. In looking at the 12th District in both of those plans, is it fair to say that they – that they have a similar appearance?

A. To an untrained eye, yes. But to somebody who's been dealing with this and knows the geography, no. In Mecklenburg County, Rucho-Lewis Congress 3 has substantially more of Mecklenburg County included in it. And if you know the precincts and the geography of Mecklenburg County, you'll know that virtually all of that additional geography is African American communities.

Q. Yes, sir. And is that the same –

A. And the same thing in – in Guilford County, Moore territory, you'll know that all of those are [220] African American communities. And if you go down to Davidson County, you'll see that it's skinnier and you'll know that what was eliminated was – was white voters in Davidson County.

Q. Okay. And is it fair to say that the voters that were added in Mecklenburg County are strong Democrat voters?

A. Yes. Probably, yes.

Q. And is it fair to say that the voters added in Guilford County are very strong Democratic voters?

A. That – that would probably be correct, yes.

Q. And is it fair to say that the – the voters taken out of the 2001 12th District in Davidson County and put in other counties, is it fair to say those are probably strong Republican voters?

A. I wouldn't necessarily say that. I know that they would be white voters, but I don't know that they

would necessarily be Democratic or Republican voters. I just – I – I mean, I know that Davidson County tends to be a lot more Republican than some of the other parts of my district, but I don't know for sure.

Q. Okay. And is it fair – also fair to say, Congressman Watt, that the 2011 version of the 12th Congressional District is in the same six counties as the 2001 version?

[221] A. That's correct.

MR. FARR: That's all I have, Your Honor.

JUDGE RIDGEWAY: Anything further from the Plaintiffs?

MS. EARLS: No further questions for this witness, Your Honor.

JUDGE RIDGEWAY: All right. Thank you, sir. You may step down.

THE WITNESS: Should I take these or leave them?

JUDGE RIDGEWAY: Leave those.

THE WITNESS: And leave the notebook, obviously.

JUDGE RIDGEWAY: We're going to take a 15-minute recess until a quarter til 4:00, Bailiff. (Court was in recess from 3:30p.m. to 3:47p.m.)

JUDGE RIDGEWAY: All right. Further evidence for the Plaintiffs?

MS. EARLS: Your Honor, that concludes the witnesses that we intend to call. If I may, I would like to go through the exhibits and move admission of those.

JUDGE RIDGEWAY:All right.

MS. EARLS: And first I just wanted to confirm, we earlier made a motion for judicial notice, which we

wanted to be part of the record, and I don't [222] know if that was granted or if there was any more –

JUDGE RIDGEWAY: Right. I believe the only objection to it was the relevance of the 2012 election data.

MR. PETERS: That's right. Not to the authenticity of anything, but to relevance.

JUDGE RIDGEWAY: All right. I consistent with our prior ruling, we're going to accept that evidence. And we do recognize it as a matter of judicial notice, the election results from a series of I believe they were all statewide elections. All right. That's fine.

MS. EARLS: Thank you, Your Honor.

So then Plaintiffs' exhibits are in the – the big white notebook. And the first one, Exhibit No. 1, and Exhibit No. 2 are a submission, a public document and record that was submitted to the Justice Department concerning the Franklin County Board of County Commissioners' Redistricting; then a letter from the Chief of the Voting Section of the Justice Department granting preclearance. And we had listed a witness, Chris Heagarty, who would come to authenticate these documents. And I believe the Defendants agreed that we could admit them, subject to their relevance objection; but they had no other objections to these two being [223] admitted.

MR. PETERS: That's correct.

JUDGE RIDGEWAY: All right. And I'm not – I don't think that we need to state a ruling on each of the relevancy objections. That's a blanket ruling. Although if there is a specific objection that you wish to be heard

further on beyond relevancy or a more nuanced objection on relevancy, be sure to let us know so that we can consider that.

All right. Go ahead, Ms. Earls.

MS. EARLS: Then Exhibits 2 – I'm sorry – 3, 4 and 5 and 6 are scatter plots that plot the districts by black voting-age population for Senate and House enacted districts and benchmark districts. And then Exhibits 7 and 8, maps of – of House District 54 in Lee County with data about the racial composition of Voting Tabulation Districts in Lee County and a portion of House District 54 that's in Lee County.

And then Exhibits 9 and 10 are maps of alternative Congressional District 4, configurations with the data of the total population, voting-age population, and election returns – election results if the districts had been drawn that way.

These districts, again – I'm sorry. These exhibits numbered 3 through 10 are exhibits that, [224] again, we had listed a witness and the Defendants have agreed to not require us to call that witness to authenticate these exhibits. So the – but, of course, there are relevance objections.

JUDGE RIDGEWAY: All right.

MS. EARLS: And then, finally, Exhibit 11 is a letter that Senator Linda Garrou wrote to the Justice Department. This was actually already in the record attached to her affidavit. And out of an abundance of caution, because she testified live, we made it an exhibit. But I –I would at this time move admission of Plaintiffs' Exhibits 1 through 11.

JUDGE RIDGEWAY: All right. Do the Defendants wish to be heard further on their objections to Exhibits 1 through 11?

MR. PETERS: No, Your Honor. I think we've laid all that out.

JUDGE RIDGEWAY: All right. They are admitted.

MR. PETERS: Yeah. Just –

MS. EARLS: The remaining, if I can –

MR. PETERS: I'm – I'm sorry. I just want to clarify. They – are they admitted or admitted subject to the same presumption you've discussed with other evidence that –

[225] JUDGE RIDGEWAY: Yes. I – I – yes. They're subject to the blanket presumption that the Court will only consider admissible and relevant evidence and assign weight – the appropriate weight to it.

MR. PETERS: Right.

JUDGE RIDGEWAY: So for the purposes of the record, they are received in the record. Maybe that's a better way of phrasing it –

MR. PETERS: Thank you.

JUDGE RIDGEWAY: – of stating it.

MR. PETERS: Thank you.

MS. EARLS: Okay. My co-counsel have – I – I wanted to explain that Exhibits –Plaintiffs' Exhibits 12 through 29 are exhibits we'll use with our rebuttal witness, so I'll wait with those.

The exhibits behind Tab D are the excerpts from the floor debates, and so I would also move admission of Exhibits 1 through 5 under Tab D.

JUDGE RIDGEWAY: All right. Any further objections, other than what's been previously stated with respects to Tab D, Exhibits 1 through 5?

MR. PETERS: No, Your Honor.

JUDGE RIDGEWAY: All right. Those are also received in the record subject to the relevancy objection.

[226] MR. SPEAS: Your Honor, I did ask Senator Garrou about 31A and B, which were a couple of maps. They were not previous – they are already in evidence, but I would move them.

MR. FARR: We have no objection.

JUDGE RIDGEWAY: Right. I believe those have been received. They are admitted.

All right. Anything further from the Plaintiffs?

MS. EARLS: Not at this time, Your Honor.

JUDGE RIDGEWAY: Okay. Very good. Then let's turn to evidence for the –

MR. FARR: May we approach the bench, Your Honor?

JUDGE RIDGEWAY: – Defense.

Yes.

(A bench conference was held outside the courtroom.)

JUDGE RIDGEWAY: All right. Ladies and gentlemen, thank you for your patience. We are going to recess for the afternoon and resume tomorrow morning at 9 o'clock. I believe we are – after conferring with counsel, we're still well within the schedule that we anticipated. So we'll expect a full day of testimony tomorrow and should be able to resolve it – not resolve

the matters, but to certainly conclude the hearing by the [227] end of the day tomorrow. So that's the plan.

Just – I meant to mention this earlier, but I just wanted to especially thank the folks who have made this facility and these arrangements possible.

First of all, Campbell Law School has been extremely gracious to us in providing their hospitality. The business – North Carolina Business Court, Judge Jolly and Christy Rutan, his assistant, have been most hospitable and have graciously provided these wonderful facilities to us as well.

The Wake County Sheriff's Department has provided bailiffs to us. The Clerk of Court has provided our clerk; and our court reporter, who has been with us I believe through every hearing has been invaluable to us. We certainly appreciate that.

So with all of that said, we're going to recess for the afternoon and resume tomorrow morning at 9:30 – excuse me – 9 o'clock.

(Court recessed on Tuesday, June 4, 2013 from 3:59 p.m. until Wednesday, June 5, 2013 at 9:00 a.m.)

(VOLUME I OF II.)

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings taken at the June 4, 2013 Special Session of Wake County Superior Court is a true and accurate transcript of the proceedings taken by me and transcribed by me. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 19th day of June, 2013.

/s/ Ranae McDermott

RANAE McDERMOTT, RMR, CRR
Official Court Reporter
131 Saint Mellion Drive
Raleigh, NC 27603
919.602.2110

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